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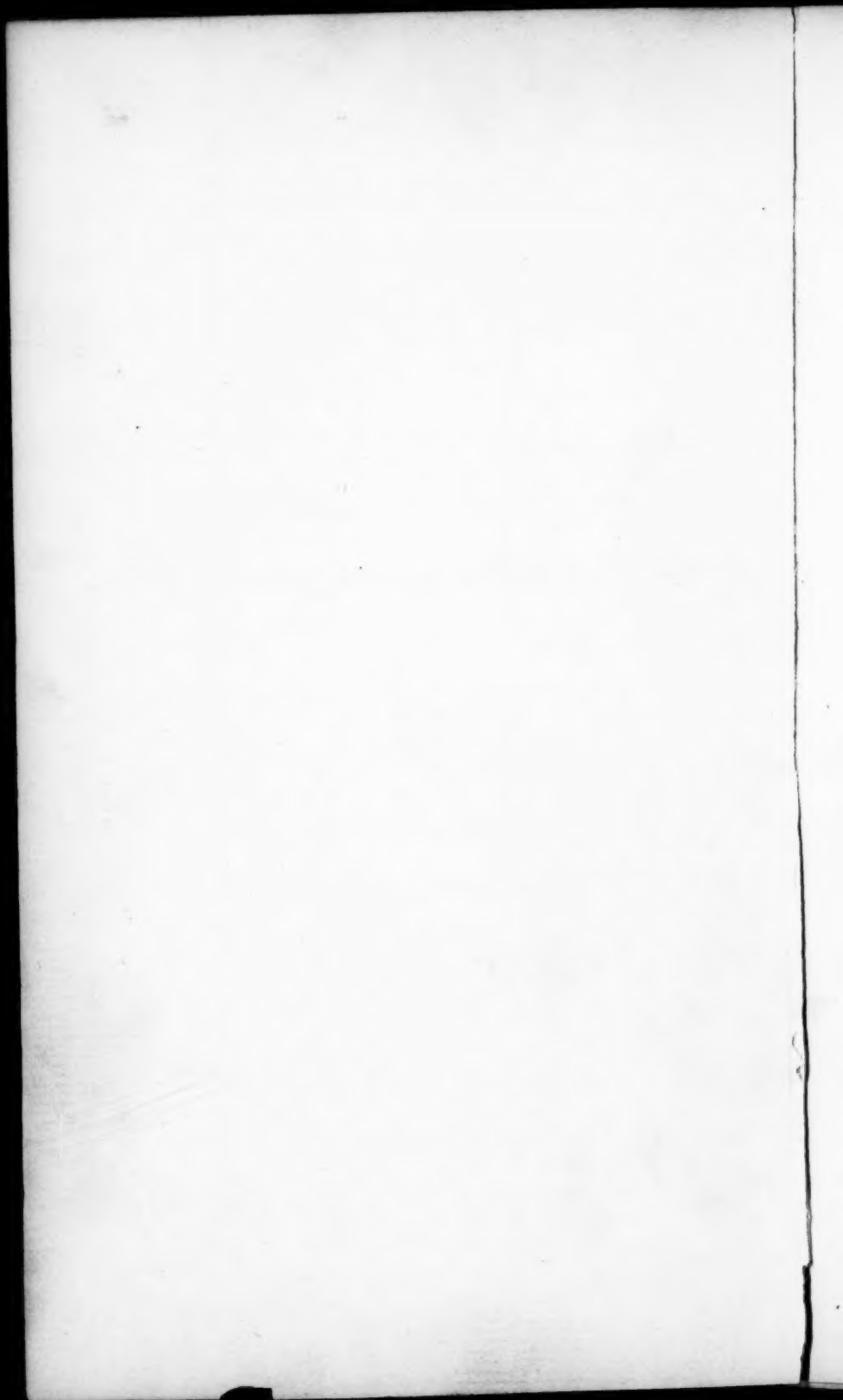
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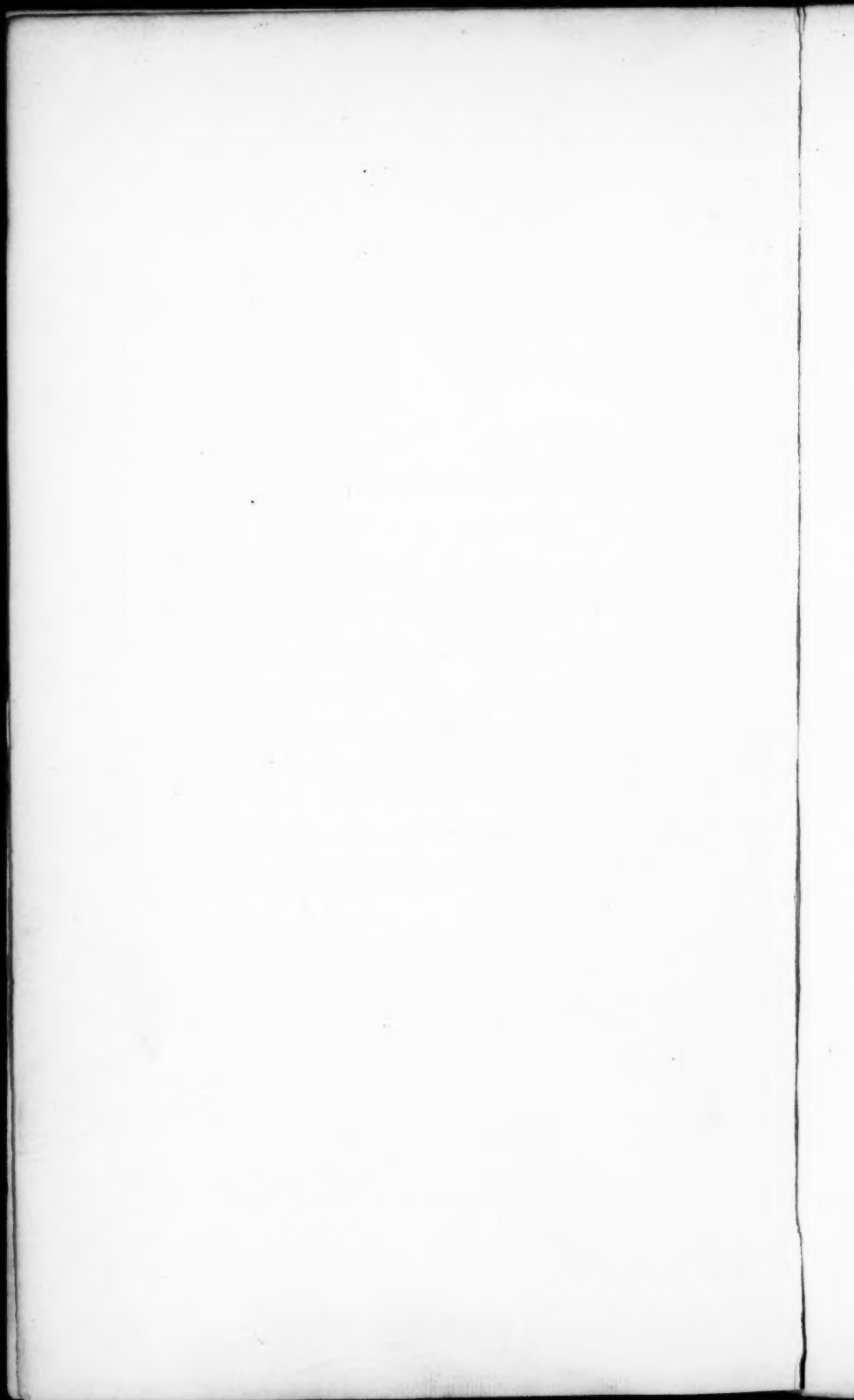




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PAPERS AND PROCEEDINGS  
OF THE  
TWELFTH ANNUAL MEETING

ITHACA, N. Y., DECEMBER 27-29, 1899

FEBRUARY, 1900

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## *AMERICAN ECONOMIC ASSOCIATION.*

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The American Economic Association is an organization composed mainly of persons interested in the study of political economy or the economic phases of political and social questions. As may be seen by examining the list of members and subscribers printed in this volume, all universities and most prominent colleges in the country are represented in the Association by their teachers of political economy and related subjects. A large number of members also are drawn from those interested as business men, journalists, lawyers or politicians, in the theories of political economy or, more often, in their applications to social life. There are also more than one hundred subscribers, nearly all being large libraries.

The annual meetings of the Association bring together for professional and social intercourse many teachers and public men. In 1897 and 1898 the American Economic Association met in joint sessions and less formal gatherings with the American Historical Association and it is now expected that this custom, in force at the first two meetings of the Economic Association in 1885 and 1887, will be continued at Detroit in 1900. The annual meetings contribute not a little to create and cement acquaintanceship and friendship between teachers of economics and cognate subjects in different institutions, and so to counteract any tendency to particularism which the geographical separation and the diverse traditions of American colleges might be deemed to foster.

The Publications of the Association, a complete list of which is printed at the end of this volume, were begun in March, 1886. The first series of eleven volumes, comprising over six thousand three hundred pages, was completed by a general index in 1897. Meanwhile, in January, 1896, the bi-monthly Economic Studies were begun. Of these four volumes, containing, with the supplementary Hand-Books of the annual meetings, nearly six hundred pages each, have now appeared. In addition to the Studies there were also issued, in a new series of the Publications, two large monographs, one a pamphlet of 400 pages on the cotton industry of the United States, the other an elaborate critical discussion, written by more than twenty statistical experts and extending to five hundred pages, of the methods and results of the Federal Census. It is believed that some of the suggestions of improvement made in this volume will bear good fruit in the census of 1900.

The Council of the Association has directed that in the future the Studies be discontinued, and that a quarterly publication of octavo form be issued under the title of Publications of the American Economic Association. The first number of this issue contains the Proceedings of the Twelfth Annual Meeting. It is intended to add to the quarterly numbers, from time to time, larger monographic supplements as the condition of the treasury and the supply of suitable manuscript may make possible. But in any case members and subscribers are assured of issues sufficient in quantity and quality to afford a generous equivalent for their dues.

The officers of the American Economic Association and the contributors to its Publications receive no pay for their services. Thus the entire receipts of the Association are expended in printing and circulating the



Publications and in the slight expenses attendant upon the annual meetings. Any member, therefore, may regard his annual dues either as a subscription to an economic publication, a payment for membership in a scientific association, or a contribution to a publication fund for aiding in the publication of valuable manuscript that might not be accepted by a publishing house governed primarily by motives of profit, and that could not be published by the writer without incurring too heavy a burden of expense.

## *CONSTITUTION.*

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### ARTICLE I.

#### NAME.

This Society shall be known as the AMERICAN ECONOMIC ASSOCIATION.

### ARTICLE II.

#### OBJECTS.

1. The encouragement of economic research, especially the historical and statistical study of the actual conditions of industrial life.
2. The publication of economic monographs.
3. The encouragement of perfect freedom of economic discussion. The Association, as such, will take no partisan attitude, nor will it commit its members to any position on practical economic questions.
4. The establishment of a bureau of information designed to aid members in their economic studies.

### ARTICLE III.

#### MEMBERSHIP.

Any person may become a member of this Association by paying three dollars, and after the first year may continue a member by paying an annual fee of three dollars. On payment of fifty dollars any person may become a life member, exempt from annual dues.<sup>1</sup>

<sup>1</sup> NOTE.—Each member receives all reports and publications of the Association.

ARTICLE IV.

HONORARY MEMBERS.

The Council may elect foreign economists of distinction, not exceeding twenty-five in number, honorary members of the Association. Each honorary member shall be entitled to receive all reports and publications of the Association.

ARTICLE V.

OFFICERS.

The officers of the society shall consist of a President, three Vice-Presidents, a Secretary, a Treasurer, a Publication Committee and a Council.

ARTICLE VI.

COUNCIL.

1. The Council shall consist of an indefinite number of members of the society, chosen, with the exception of the original members, for three years. It shall have power to fill all vacancies in its membership, and may add to its number.

2. It shall elect the President, Vice-Presidents, Secretary, and Treasurer, which officers, with the Chairman of the Publication Committee, shall constitute an Executive Committee with such power as the Council may entrust to it.

3. The Council shall organize itself into a number of standing committees upon the various lines of research undertaken. These committees shall prepare reports from time to time upon such subjects relating to their respective departments as they may select, or as may be

referred to them by the Council. These reports shall be presented to the Council at its regular or special meetings and be open to discussion. All papers offered to the society shall be referred to the appropriate committees before being read in the Council.

4. The Council shall have charge of the general interests of the society, and shall have power to call meetings and determine what reports, papers, or discussions are to be printed, and may adopt any rules or regulations for the conduct of its business not inconsistent with this constitution.

5. The Council shall elect a Committee on Publications, which shall consist of six members, so classed that after the first election the term of two members shall expire each year. This committee shall have charge of and responsibility for the scientific publications of the Association.

## ARTICLE VII.

### AMENDMENTS.

Amendments, after having been approved by a majority of the Council, may be adopted by a majority vote of the members present at any regular meeting of the Association.

## BY-LAWS.

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1. The President of the Association, who shall be *ex-officio* a member of the Council, shall preside at all meetings of the Council and Association, and perform such other duties as may be assigned to him by the Council. In case of inability to perform his duties, they shall devolve upon the Vice-Presidents in the order of their election, upon the Secretary and Treasurer, and upon the Chairman of the Standing Committees, in the order in which the committees are mentioned in the list.

2. The Secretary shall keep the records of the Association, and perform such other duties as the Council may assign to him.

3. The Treasurer shall receive and have the custody of the funds of the Association, subject to the rules of the Council.

4. The following Standing Committees shall be organized :

- (1). On Labor.
- (2). On Transportation.
- (3). On Trade.
- (4). On Public Finance.
- (5). On Industrial and Technical Education.
- (6). On Exchange.
- (7). On General Questions of Economic Theory.
- (8). On Statistics.
- (9). On Teaching Political Economy.

The Executive Committee may appoint such special committees as it may deem best.

5. At any meeting called by the general summons of the President, five members shall constitute a quorum.

6. Papers offered for the consideration of the Council shall be referred by the Secretary, each to its appropriate committee.

7. In order to encourage economic research, the Association proposes to render pecuniary assistance in the prosecution of the same, and to offer prizes for the best monographs upon selected topics. It stands ready to accept and administer any fund placed at its disposal for either purpose.

8. The Executive Committee shall have power at any time to add new members to the Council.

9. The Executive Committee shall assign all members of the Council to one of the Standing Committees, and shall appoint the Chairmen of the Committees.

10. It shall be the duty of the Chairmen of the respective Committees to organize and direct the work of the same, under the general control of the Council.

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## *THE TWELFTH ANNUAL MEETING.*

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The Twelfth Annual Meeting of the American Economic Association, held with Cornell University at Ithaca, New York, Wednesday, Thursday and Friday, December 27-29, 1899, was opened with the following words of welcome by President J. G. Schurman :

*Mr. President and Members of the Economic Association :*

I desire, on behalf of Cornell University, to extend to you a very cordial welcome. I hope you will feel at home here. The subject which you represent, being what we may call one of the modern studies, is one which we have endeavored to domicile at this University and zealously to cultivate from the beginning, and I hope that the members of the Economic Association will not accuse me of any exaggeration if I claim at the present time that Cornell University is doing its duty not only in teaching students but in its contributions to the solution of important economic problems which are now concerning the country. I hope that you will feel in a congenial atmosphere. You economists are to be congratulated just now because your subject deals with problems in which the public feels a vital interest. I see that the program is peculiarly rich. Certainly under these circumstances I will not detain you a single minute further than to repeat the welcome I have already made.

## PROGRAM.

WEDNESDAY, DECEMBER 27.

*Morning Session, 10 a. m.*

- I. Address of Welcome. PRESIDENT J. G. SCHURMAN, Cornell University.
- II. Annual Address of the President of the Association : " Economic Theory and Political Morality." PRESIDENT ARTHUR T. HADLEY, Yale University.
- III. Discussion of the President's address. PROFESSORS J. R. COMMONS, L. M. KEASBEY, E. R. A. SELIGMAN, and others.

*Afternoon Session, 3 p. m.*

- I. Senior's Theory of Monopolies. PROFESSOR RICHARD T. ELY, University of Wisconsin.
- II. The Place of the Speculator in Distribution. PROFESSOR H. C. EMERY, Bowdoin College.
- III. Taxation as a Partial Substitute for Borrowing to cover Permanent Municipal Improvements. PROFESSOR E. D. DURAND, Stanford University.

THURSDAY, DECEMBER 28,

*Morning Session, 10 a. m.*

(COMBINATIONS OR TRUSTS.)

- I. Financiering of Trusts. HONORABLE CHARLES S. FAIRCHILD.
- II. The Influence of Trusts in the Development of Undertaking Genius. PROFESSOR SIDNEY SHERWOOD, Johns Hopkins University.
- III. Some Tendencies in Recent Combinations which may become Dangerous. JAMES B. DILL, Esq.
- IV. Discussion.

*Afternoon Session, 3 p. m.*

(RAILWAY ECONOMICS.)

- I. Railroad Relief and Beneficiary Associations. W. H. BALDWIN, JR., President of the Long Island Railway.
- II. Railway Charters. DR. B. H. MEYER, University of Wisconsin.
- III. Suggestions Relative to Railway Pooling Legislation. PROFESSOR HENRY C. ADAMS, University of Michigan, Statistician of the Interstate Commerce Commission.

FRIDAY, DECEMBER 29.

*Morning Session, 9:30 a. m.*

- I. The Consumer's Label and the Sweat Shop. JOHN GRAHAM BROOKS.
- II. Plans for the Twelfth Census. PROFESSOR WALTER F. WILLCOX, Chief Statistician.
- III. Discussion of the Census. MR. H. T. NEWCOMB, Chief of the Agricultural Division, PROFESSORS R. MAYO-SMITH, R. P. FALKNER, and D. R. DEWEY.
- IV. Report of the Special Committee on Colonial Finance. PROFESSOR J. W. JENKS, Chairman, HONORABLE C. S. HAMLIN, PROFESSOR E. R. A. SELIGMAN, ALBERT SHAW.

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### COUNCIL MEETINGS.

A meeting of the Council was held Dec. 27, 1899, at 2:30 P. M. with President Hadley in the chair. The report of the Secretary was read and accepted. The report is as follows :

#### REPORT OF THE SECRETARY.

In accordance with the instruction of the Council (Hand-Book, 1899, p. 50) a special committee on colonial policy was constituted of the following members: J. W. Jenks, C. S. Hamlin, E. R. A. Seligman, A. Shaw, E. H. Strobel. The Executive Committee decided not to constitute a committee on agriculture.

The Macmillan Co. wrote the Secretary under date of July 26, 1898, asking him to relieve them of the Association's stock of books which had been sent to them in 1897 (Hand-Book, 1898, p. 47). After some delay the stock was shipped back to Ithaca with an inventory Jan. 28, 1899, and received in good order. Discrepancies of importance appeared between the inventories of the Association and of the Macmillan Co. and after some

discussion the Macmillan Co. agreed to assume responsibility for the shortage shown by the Secretary's inventories although denying their legal liability therefor. At the same time they gave notice of their desire to terminate the agency at the end of the six months called for under the contract. The six months are up Jan. 30, 1900, and it will be necessary for the Association to decide whether it will take steps to place a similar agency with another firm.

The request of the Council that the Executive Committee report to this meeting "upon the policy of the Association with reference to its publications" (*Hand-Book*, 1899, p. 51) will be complied with before this meeting of the Association is ended.

During the spring of the current year the plans of the Secretary changed in a way involving his absence from Ithaca after early June, and he will probably be in absence until September, 1901. Through these past months his duties as Secretary have been performed by his colleague, the Treasurer, to whom the thanks of the Association as well as his own are due.

[Signed]

W. F. WILLCOX, Sec'y.

The Secretary read a report of the Executive Committee in the form of two recommendations: (1) That the issue of the *Economic Studies* be discontinued; (2) That the report of this annual meeting be printed in monograph form.

The appointment by the chair of a nominating committee of five was ordered and the chair appointed as this committee Professors Ely, Gray, Gardner, Lindsay and Hollander. The appointment of an auditing committee of two was also ordered and the President appointed as this committee Professors Sherwood and Emery. The Council then adjourned until two P. M. Thursday.



On Thursday the Council met at 2 P. M. with Vice President Wood in the chair.

The nominating committee then reported, recommending the election to the Council of all those whose terms of office expired in 1899 and also the following members of the Association: Prof. W. F. Blackman, Mr. Wm. M. Burke, Hon. Chas. S. Fairchild, Mr. Milo R. Maltbie, Mr. Theodore Marburg, Prof. B. H. Meyer, Dr. A. F. Weber, Mr. N. A. Weston, Mr. Robert H. Whitten.

The Secretary was instructed to cast a ballot on behalf of the Association for the foregoing nominees and he did so.

The nominating committee also recommended the following list of officers for the ensuing year: President, Prof. Richard T. Ely; Vice Presidents, Theodore Marburg, Prof. F. M. Taylor, Prof. L. S. Rowe; Secretary and Treasurer, Prof. C. H. Hull; Publication Committee, Prof. D. R. Dewey, Prof. F. M. Scott.

On motion and explanation by the Treasurer the consideration of these nominations was postponed pending the decision of the future policy of the Association regarding its publications. The Treasurer then presented a statement regarding the finances of the Association.

The following resolution, introduced by Professor Mayo-Smith, was passed:

*Resolved*, That the Publication Committee be directed

1. To discontinue the issue of Studies.
2. To begin a quarterly publication under the title Publications of the American Economic Association of the form of its previous octavo issues.
3. To include in this issue the proceedings of the annual meeting and the Constitution and list of members.

4. To issue all monographs as regular numbers or as supplements in the quarterly series.

The question of the mode in which the Publications of the Association should be marketed was referred to the Executive Committee with power.

The Council then adjourned to meet at 5 o'clock.

In the meeting of the Council at five P. M. it was moved and carried that the names of the present Vice Presidents be substituted for those reported by the Committee. It was thereupon voted that the Secretary be instructed to cast the ballot for the Association in favor of the amended list of nominations.

The nominating committee further recommended that the next meeting be held at Detroit provided the American Historical Association meets then, otherwise the place of meeting be determined by the Executive Committee, and the recommendation was adopted.

The auditing committee reported that the Treasurer's reports and papers had been examined and found correct and the report was accepted and filed.

#### SUMMARY OF THE TREASURER'S REPORT, 1899.

CHARLES H. HULL, Treasurer,

*In account with the American Economic Association  
for the year ending December 27, 1899.*

<i>Debits.</i>		
Cash on hand as per last report.....		\$ 609 40
Sales and subscriptions,		
The Macmillan Company.....	\$848 69	
Charles H. Hull, Treasurer.....	392 57	
		1,241 26
456 annual dues.....		1,368 00
<i>Credits.</i>		
Publication expenses.....		\$1,892 10
Expenses of Secretary's office.....		496 15
Expenses of Treasurer's office.....		69 05
Expenses of eleventh meeting.....		74 80
Interest.....		10 00
Cash on hand.....		676 56
		<hr/>
	\$3,218 66	\$3,218 66

Examined and found correct, 12-28-99.

[Signed]

SIDNEY SHERWOOD,  
H. C. EMERY,  
*Auditing Committee.*

The Executive Committee was authorized to create special committees on the Economic Condition of the American Negro and on the Economics of Agriculture. The same committee was directed to prepare resolutions of thanks to Cornell University, and the Council then adjourned without day.

RESOLUTION OF THANKS.

On December 27, the following resolution was adopted in general session of the Association :

*Resolved*, That the thanks of the American Economic Association for the generous hospitality extended during its Twelfth Annual Meeting be tendered to President Schurman and the officers of Cornell University ; and that the Association also desires to express its hearty appreciation of the courtesies offered by the members of the Town and Gown Club of Ithaca.



## PAPERS AND DISCUSSIONS.

### ECONOMIC THEORY AND POLITICAL MORALITY.

BY PRESIDENT ARTHUR T. HADLEY, LL.D.

At our meeting a year ago, I had the honor to address this Association on the relations between economics and politics. At that time I sought to indicate at once the need of an increase of influence to be exerted by economists upon the political world, and the method by which such increase might best be attained. On the fact that such a change was needed there seemed to be no difference of opinion. But on the method by which it was to be accomplished there was much more diversity of view. Certain members went so far as to regret that in the brief time which was given for discussion no adequate opportunity was afforded them to develop different, and to some degree antagonistic, ideas, with regard to the means to be pursued in order to increase the influence of the economist in modern political life. The present address is in some sense a continuation of that which was delivered a year ago. It is an endeavor to expand more fully the argument on those points where the members of the Association felt themselves most doubtful. In its preparation I have been actuated throughout by the desire to give the fullest opportunity for the discussion of difficult questions; and I believe that its chief value will lie in the stimulus which it gives for such discussion.

It has been well said by more than one of the mem-

bers of the American Economic Association that modern political economy contains two distinct parts—often inextricably intermingled in fact, yet always separate in principle—a theory of distribution and a theory of prosperity. The theory of distribution shows how the public wealth is divided among the different members of the community. It shows what are the effects of a system of laws or a group of commercial conditions on the relative well-being of the different classes concerned. It tries to predict how changes in these laws will increase the material comfort of some individuals and diminish that of others. The theory of prosperity, on the other hand, is concerned primarily with the good or evil of the nation as a whole. It deals with aggregate results rather than with individual ones, and concerns itself with the separate parts only as they must be studied in order to understand that aggregate effect.

The distinction between these two sets of theories is not quite the same as that between static and dynamic economics; for a considerable part of the theory of distribution deals with dynamic problems—with effects which are essentially the result of industrial progress rather than of static adjustment. It much more nearly coincides with the old antithesis between deductive and historical schools. It may perhaps fairly be said to be a precise statement of a distinction for which the earlier members of the historical school were feeling, but which they failed to grasp or formulate in precise fashion—a failure which reacted seriously upon the influence of this school in matters of economic controversy. Be this as it may, the distinction is a real and permanent one. Men may agree absolutely in their theories of distribution and disagree *toto coelo* in their theories of prosperity. Marx, in his theory of distribution, followed

Ricardo implicitly; in his theory of prosperity he differed from him at every point. It was just because he accepted so thoroughly one part of the Ricardian economics that he was able to dissent so consistently from the other, with a directness of opposition born of mutual understanding. It was because each assumed so fully the existence of free competition, and carried out that assumption so completely to certain of its logical consequences, that this same power became a demigod to the one and a demon to the other. In the words of the poet,

"Both read the same books, day and night,  
But thou readest black where I read white."

As far as a man's political economy takes the form of a theory of distribution, it is not sure to be very closely connected with his ethical principles, or even with his political ones. In framing such a theory he is occupied with tracing consequences from observed facts. His political antecedents or his ethical prepossessions may lead him to observe some facts more closely than others, or to examine some parts of his chain of reasoning more critically than other parts. But these variations, as far as they exist, are errors, even from the man's own standpoint,—errors which he is interested in correcting as soon as they can be brought clearly home to him. He can say, in the words of Dunoyer, "*Je n'impose rien, je ne propose même rien : j'expose*"—I am neither impounder nor even propounder, but expounder. Nor do his theories of distribution modify his ethics much more than his ethics modify his theories of distribution; except, perhaps, so far as the habitual assumption of a set of facts and laws leads to the habitual assumption of the rightness of those laws, morally as well as intellectually.

On the other hand, a man's theory of prosperity is closely interwoven with his theories of ethics and of politics. Moral and political standards are a determining element in our judgment as to whether a nation's aggregate condition is good or bad. Observation as to the effect of different industrial systems on the stability or destruction of a nation reacts, in turn, upon our moral and political judgments. It is at this point that the interaction between economics and politics, whether by way of mutual aid or mutual criticism, is most constant. Only occasionally and incidentally do our theories of distribution lead us to intervene in political affairs by showing that certain lines of legislation produce different results from those which are contemplated. Daily and hourly does our theory of prosperity lead us to such intervention, when we believe that the aims of a certain group of moralists or politicians are destructive to the well-being of the nation as a whole.

At this point, where the possibility of influence is greatest, the difficulty which meets the economist who strives to maintain a dispassionate and critical attitude is also keenest. In his theory of distribution he can readily remain a passive observer of facts. He can measure and weigh the results of competition, as he can measure and weigh the results of gravitation or of biological selection; and can guard himself against error in fact or deduction by the same methods which are used by the physicist or the biologist for the same purpose. But when he comes to measure the aggregate merit of the total result, he has a different task and a far harder one.

I said a year ago, and I still believe, that even in this task the scientific knowledge possessed by the economist enables him to come nearer to its fulfillment than can



his fellow members of the community ; that in this field of exceptional doubt he should undertake to realize the very highest ideals as a scientific man who stands above the clouds of prejudice, and therefore sees farther than those about him ; that it is his high mission to be the representative and the champion of the permanent interests of the whole community, in the face of conflicting claims from representatives of temporary or partial ones.

This view of the mission and the duties of the political economist has been challenged on three grounds : as bad psychology, bad politics, and bad ethics. We are told, in the first place, that as a matter of practical psychology, no man can make his judgment as to national well-being independent of his social antecedents and his ethical training. If he has grown up among soldiers, he will have one set of standards ; if he has grown up among business men, he will have a second ; if he has grown up among literary men, he will have a third ; if he has grown up among laborers, he will have a fourth. Strive as he may to disassociate himself from the effects of education and environment, he can at best be but partially successful. His political vision suffers not only from nearsightedness, but from astigmatism. He may correct the former ; no power on earth can enable him to correct the latter, or even to gain an objective estimate of its effects. Robert Malthus was a disinterested man, and so was Henry George ; yet in neither case was such disinterestedness sufficient to protect them from obliquities of moral vision which led to diametrically opposite conclusions as to the conditions of public prosperity. A man may have the intention to be impartial, and may be perfectly candid in the belief that he has carried out this intention ; but that only makes

matters worse, because this delusion prevents him from recognizing the need of applying outside correctives to his judgment, and often leads him to impugn the fairness of anybody else who suggests such correctives. Why not, under these circumstances, admit freely the difficulty under which we labor in making objective judgments? Why not recognize from the first that each of us represents a locality or a class, and that the moral judgment of each observer is sure to be affected and to some degree distorted by his own personal prepossessions? Such a course, frankly adopted, its advocates claim, will keep the bad men from hypocrisy, the good men from self-deception, and the large number of men who are neither very good nor very bad from that mixture of hypocrisy and self-deception which contrives to combine all the evils of them both.

We are told, in the second place, as a wholly independent line of argument, that an attempt on the part of the economist to represent the total interest of the public, even if in a few cases of eminent mental and moral endowment, like John Stuart Mill, it proved approximately possible, would not be good politics. The assumption by an economist that he represents the total interest of the community rather than the interest of some one part or class in that community, exposes him to the suspicion of being either a pharisee or a hypocrite—either a man who over-estimates his own righteousness, or one who pretends to a righteousness which he does not possess. If either of these titles is a just one, it interferes with a man's success as a political reformer. If it is even suspected to be just, it will prove a heavy weight around his neck. Even if a man believes himself to be wholly free from either hypocrisy or pharisaism, it is a wise measure for him to keep out of the

company of hypocrites and pharisees. He will be a more efficient reformer if he claims a little less for his mission and can get those lesser claims recognized, than if he claims everything and gets no recognition at all.

We are further told that whether he be considered a hypocrite or not, he will be entitled a visionary, and justly so. The general public whose interests he represents is not a working political force. Its interests are so vague and remote that there is no means of getting them recognized in the concrete work of legislation and of government. You must appeal to localities and to classes. Localities have their representatives, classes have their organs. Each locality and each class has its public sentiment, which in one way or another is a living power in politics. This existence of a coherent public opinion and of a definite interest is a necessary condition for the social reformer, who would be more than a pure theorist. The one is his material, the other is his tool. No man, however great, can hope to accomplish his results with neither tools nor materials ready to his hand. Even if you believe yourself wholly disinterested you must appeal to classes and secure the partial good which is attainable, rather than aim at the greater good which from the outset you are fated to miss.

They tell us further that this view of the matter represents not only practical politics but practical ethics. Life in a modern free community is an interaction and interplay between the several members of that community. Each individual is working for ends of his own, distinct from those of other individuals. Each class has standards and ideals of its own, differing from those of other classes. Civil liberty is but a recognition of these differences—permission to the various members of the state to pursue their own several ends under the pro-

tection of a common law. According to this view, the man who would sink the interest of a class in a supposed general public interest, is but depriving that class of its own natural safeguard in the struggle for existence. If it works for itself it gets what it can—sometimes more than it ought, sometimes less than it ought; but in a reasonably well-ordered civil society it takes its chances with the others. If a single group, in its zeal for the general good, omits to pursue its own group interest, it causes a want of balance between the parts, upsets the conditions of the game, and contributes rather to its own annihilation than to the predominance of those conceptions with which it has identified itself. Let us have fair play; let us have a fair chance for conflicting views to struggle one with another, as a condition of progress for the whole society. This is the cry among no small number of those who think they have studied the conditions of modern progress most carefully.

Widespread and plausible as are some of these views, I desire to take fundamental issue with those who support them.

The system of political ethics just outlined is an outgrowth of our experience with two important institutions,—competition and representative government. Competition has led people to see how frequently the self-interest of the individual, as given free play, conduces to the general advance of the public. Representative government has shown how a full expression of opinion by those who speak for the several parts or classes in the community can be made to contribute to an advance which inures to the advantage of all parts and all classes together. Yet in the face of these facts, I believe that the theory of struggle and compromise as a normal means of progress needs restatement; and that the man

who looks below the surface in the study of these two institutions, will be brought to conclusions directly opposite from those which prevail in so much of the current thought of the world to-day.

Does the theory of competition give ground for the view that a struggle between different parts for their class interests, works out in an economic harmony? Not at all. It shows, on the contrary, that struggles *within* each class, antagonistic for the moment to the apparent interests of that class, so conduce to the interests of many other parts of the body politic as to work out a generally beneficent result. No economist of any reputation would hold for a moment that the economic struggles of different men for themselves, would furnish a reasonable basis of adjustment, or compromise, with those in different positions. What the champion of competition holds, is rather that the struggles of each man for himself prevent others, who are in a similar position, from taking undue advantage over their fellow men. It is not a conflict between classes, but a conflict within classes, which he seeks to perpetuate; and he would perpetuate it because he can prove, or thinks that he can prove, that it conduces to a common interest more wide and more lasting than those which the individual classes, if organized into trusts or trades unions, would seek to pursue.

It is popularly said that competition is only the form which the struggle for existence takes in modern civilized society. This is at once true and false—true in form, false in the suggestions to which it gives rise. The fact is, that modern civilized communities have so regulated the struggles for existence, that they tend, on the whole, to the benefit of third parties, rather than to their detriment. Two cats struggle to eat the same

bird; two bosses compete to employ the same workman. From the standpoint of the bosses, the transaction bears some analogy to the case of the cats. From the standpoint of the workman, the transaction bears no analogy whatever to the case of the bird. The more cats there are, the worse for the bird, as well as for the cats; the more bosses there are, the worse for the bosses, but the better for the workman. When Adam Smith showed the efficiency of competition as a regulator of price and an increase of useful production, he furnished a powerful defence for the existing social order. He cannot, however, for that reason, be fairly charged with having been an advocate of the interests of the property owner. The weight and force of his reasoning lay in the fact that he showed the beneficent effects of such competition upon the community as a whole, rather than on persons most immediately interested. He may have exaggerated those good effects and underrated the evils by which they were accompanied. I shall not now try to discuss that point. But his permanent and decisive influence as a social reformer lay not in an advocacy of the views of any class, but in his advocacy of a means of correcting the formation of class lines. The success of competition, so far from warranting us in the adoption of a system of political morality and a theory of political progress, based on advocacy of class interests, proves rather the advantage and even the necessity of subordinating those interests to a wider common good.

With the institution of representative government the case is somewhat different. Here we have an organization of localities and of classes, and a recognition of such classes in the actual work of government. It would, therefore, seem as though the success of this system were a powerful argument on the side of that theory

of politics and of ethics which regards the good of the whole community as best to be reached by a compromise between the aims of different sections of the community. But a profounder study of constitutional history leads to an opposite conclusion. It shows that parliaments and congresses, in the really great periods of their history, have been valuable, not as a field of compromise between local interests, but of information as to general ones; not for the consummation of private bargains, but for the creation of public spirit.

Down to the end of the last century, the English Parliament, as its name implied, was essentially a place for discussion. Representatives from different localities met together at Westminster to interchange views as to the state of the nation. Each member reported to the others the feelings and wants of his locality; each received from his fellow members enlightened views as to the affairs of the realm as a whole, which he was able to report at home and make the basis of practical action in his section of the community. The essential function of the early parliaments was the creation of a united public sentiment. They roused the interest of the English people outside of the sphere of their petty local exigencies, and enabled them, by common action, to resist the extensions of the royal prerogative to which, in the absence of such common action, they must separately have fallen victims. It is true that the Houses of Parliament had large functions in addition to this, but they all group themselves round this central work. Even the right of the Commons to originate measures of taxation, so sedulously attacked by the kings, and so jealously guarded by parliaments, had its chief importance, not as a means of avoiding the imposition of burdens upon the people, but as a means of compelling the monarch



to call representatives of different parts of the people together for the authoritative presentation of popular opinion. At the close of the last century, when other countries adopted institutions modeled on the English Parliament, it was intended that they should preserve this same function as debating bodies; and the most glorious pages in the history of the United States Congress, are those in which public opinion was formed and public spirit roused by speeches like those of Webster and of Clay. Just as in the sphere of commerce, competition enables members of the different parts of the business community to get something wider than a class view point, and compels them to work to a common end, so in the sphere of politics did representative government enable and compel members of the different geographical sections to get something wider than the local view point, and to see what was the general sentiment of the nation of which they formed a part.

In the course of the present century our representative assemblies have ceased to be places for debate. The extension of the telegraph and the postal service has given the different parts of the community means of information more rapid, although in some respects perhaps less trustworthy, than that which was furnished by their Congressional representatives in the olden time. The press has taken the place of the legislature as a forum for the formation of public sentiment. Parliaments and congresses have become bodies for the making of laws rather than for the making of opinions. That this change has been accompanied by a loss in salutary influence of legislative bodies is, I think, unquestionable. No longer do the members strive to impress their several convictions on the whole body of which they form a part; they strive rather to form a



compromise in which the interests of the part which they represent shall have adequate recognition. This substitution of compromise for conviction as the ideal of legislative activity is perhaps the greatest and most pervasive evil under which our political machinery suffers. It shows its effect in the demoralizing principle that the representative should be guided in his utterances and his votes by the opinions of his constituents, rather than by his own—a principle which, in spite of all protests, has come to be generally accepted in practical politics. It deprives the member of the legislature of the educational influence incident to his position. It makes him an agent not only of his district, but of his party within his district. It manifests its results in appropriation bills, where the members who stand up for the general interest of the treasury are increasingly rare, and those who make claims for the expenditure of money on behalf of their localities—and often on behalf of private interests within their localities—become constantly louder. It shows itself even in general legislation, where the character of modern statutes as a patchwork of private demands has become only too notorious.

All this has gone so far as to produce a change in the public estimate of parliamentary bodies. The glorification or idealization of the legislature, so common in generations immediately gone by, is rapidly passing away. In matters of municipal government we are lessening the application of the old representative system—giving more power to the mayor and those persons appointed by the mayor, and less to the representatives of the several districts; because, with the amount of business that is done by the ordinary municipality, we cannot afford to let the general interests of the whole be

plundered in behalf of the several parts. The same tendency shows itself in connection with state legislatures, whose sessions are now being made less frequent, and whose sphere of action when they do meet is being narrowed by constitutions and other instruments providing for a reference of all more important laws to the people direct. It is not necessary for the purpose of this argument to say whether this change be an improvement or not; it is at any rate a significant sign of the trend of the times. The abandonment of the duty of debate as to the common interest and the substitution of the work of negotiation as to the private and partisan interests within the several districts, have often converted the representative assembly from a source of public safety to one of public danger.

The causes which have prevented competition in business and representative government in politics from fully safeguarding the interests of the community in the days just gone by are likely to be accentuated in the near future.

Improvements in machinery and in business organization during recent years have developed to such an extent that competition, in the old sense, is in many lines a thing of the past. It can no longer be utilized without loss of public as well as private economy. We cannot have parallel railroads or competing water works without a loss, either from increased expense of plant or diminished convenience in service. We cannot, in a great many lines of manufacture, have competition as we had it twenty-five years ago, without disastrous fluctuations in price and the danger of commercial crises due to irregular investments of capital. All these facts are so familiar at the present day that it is useless to enlarge upon them. Business has become a trust, in

a sense far different from that which the accidental application of this word has carried with it,—a thing involving a delegation of power by the public to the hands of a few men, which they are able, if they please, to misuse to the detriment of others without being immediately overtaken by any legal or commercial penalty. That they will themselves suffer in the long run from such misuse of powers entrusted, is very probably true; but the reaction upon them is so indirect that we cannot rely upon it as a protection to commercial society in the way that we could rely on everyday competition in the smaller and more individualized business of fifty years ago. The correctives to the abuse of individual selfishness in the commercial world today are so much less immediate and automatic than they once were that very few persons now preach unlimited competition as a means of promoting the general good. So marked, indeed, is this reaction that there is danger of our having too little confidence in individual initiative in the immediate future, and of regulating these trusts by exercise of public authority, which may prove in the long run less wise than private enterprise itself.

A similar change is taking place in matters political as well as industrial. Not only are our municipalities giving examples of combined action in the way of public works undreamed of a century ago, but our nations as a whole are undertaking yet larger combinations in the shape of colonial empires. What will be the ultimate result of this last change of national character it is far too early to predict; but this is certain: that it will necessarily be accompanied by a recognition of the fact that public office is a public trust more fully than it has been recognized in the past. A federation of states of approximately equal strength may govern one another

on a principle of separate pursuits of selfish interests; and although there will be some aggregate loss through the preference of local interests to general ones, there is likely to be at least a relative fairness when each member of the federation is strong enough to secure its own share of the plunder and to protect itself from undue imposition. But when we come to administer the affairs of a weaker nation to which we do not and cannot give political autonomy, the evils of the old system become so obvious and the need of ideals in politics becomes so exacting that even those who in their past public life have scoffed at the conception of a higher law than their own selfishness, are, under the new conditions, compelled by very shame to appeal to such a higher law. The more completely our undertakings, whether private or public, industrial or political, take the character of trusts, the more impossible does it become for those who are placed in authority to represent personal or class interests without gross violation of what we, in our everyday life, recognize as fundamental dictates of sympathy or of justice.

If it were true that each man's mental horizon were bounded by his class interests; if the man who claimed to look beyond them were sure to be regarded as a hypocrite and were likely to be abused as self-deluded; if we were constitutionally inaccessible to any political motives higher than those of rational egoism; this would simply mean that we were fundamentally unfit for the task that is before us. It would mean that the trusts which were placed in the hands of our citizens by the new conditions of business and of politics, were of a kind which we could not fulfil. It would indicate that the largeness of our problems would ruin us morally and politically, as Rome was ruined by her imperial

problems two thousand years ago. But I have faith to believe that this is not the fate marked out for us to-day. I believe that the American people and the modern civilized world in general will solve these problems, as they have solved other problems which have come up in the successive phases of their history; that we shall meet the new collective needs of industry and government with a true collectivism of spirit and purpose. Not with that superficial collectivism or socialism which, like the individualism that it strives to supersede, often makes too much of mere political machinery, and believes that men are to be saved by their institutions rather than their characters; but with a public spirit which demands, as a part of the national ethics, that men shall shape their course on the basis of conviction rather than of compromise, and that public discussion shall look toward a common understanding rather than a bargain. Because the political and commercial methods of the past have led to compromise rather than conviction, or because the successful man of affairs must be ready to compromise where he fails to convince, let us not say that all politics and all commerce is but a tissue of compromises, and that a political or commercial science which pretends to be something broader and better than this, is an illusion. Let us as economists take the opportunity that lies before us, in the face of new conditions for whose treatment the old methods are proving themselves inadequate. Let us employ our understanding with regard to public needs as a means of evoking public spirit. Let us use whatever special knowledge we have with all the breadth of purpose which it is in our power to attain, and make ourselves, as becomes men of science, representatives of nothing less than the whole truth.

## DISCUSSION OF THE PRESIDENT'S ADDRESS.

LED BY JOHN R. COMMONS, NEW YORK, BUREAU OF ECONOMIC RESEARCH, PROFESSOR E. R. A. SELIGMAN OF COLUMBIA UNIVERSITY, AND PROFESSOR L. M. KEASBEY OF BRYN MAWR COLLEGE.

MR. COMMONS: The reason given by President Hadley why the economist should exert more influence in politics is that he represents the nation as a whole, and in the conflict of class interests it is important for social prosperity that there be one class of leaders who will keep in view the permanent welfare of the aggregate. The economist should not descend to be the spokesman of a class, like the politician, but he should retain his position as spokesman of all.

Whatever meaning may be given in practice to this statement, I have no doubt that all economists of standing have guided themselves by a sincere desire to promote the best permanent welfare of society. They would certainly be unworthy the name of *political* economists and much more unworthy a hearing from the public if they were not animated by such a desire. And it may turn out, that, by a sufficient refinement of the definition of "economist" and "class", we may reach the point, where there will be no difference between our views. But as it seems to me at present there is a practical difference which will appear as I proceed.

The question as introduced by President Hadley last year, and as now repeated, brings up the practical question as to the method by which the economist can acquire a positive influence on legislators, judges, and executives in the formation and execution of laws. In his former paper<sup>1</sup> he made the distinction between economists who

<sup>1</sup> The Relation between Economics and Politics. *Economic Studies*. Vol. IV, No. 1., Feb., 1899.

devote themselves to social theory and the theory of utility and those who devote themselves to the practical questions of current politics. Economists in our day had lost their influence in politics because they had turned from practical questions to theoretical questions. I take it that we are discussing the same question now. The question is not what should be the position of the speculative philosopher but of the practical economist. It is a question of method.

Taking this position it seems to me quite plain that to have influence he must have the ear either of those who control legislation or of those who are striving to get control. To do this his doctrines, and especially their practical application, must be in harmony with the interests of one side or the other. Neither side will consult him on the ground of his claim to represent the nation as a whole. They consult him because he is the one man who shows to the nation as a whole that the interests of that class are for the permanent interests of the whole.

1. *Class Motives*.—It will doubtless be agreed that if the economist is to have influence he must strike some dominant motive in the minds of those who listen to him, or he must educate such a motive. There are two motives which pertain to this question—they may be called the motive of *patriotism* or public spirit, and the motive *class-interest*. These I take it, are both different from *self-interest*. I should line up these motives along with those distinctions to which President Hadley has called our attention. I should say the motive of patriotism is the motive to promote "the permanent interests of the community", *i. e.*, the motive corresponding to the "theory of prosperity". The motive of self-interest is the motive dominant in each of the cats



which struggle for one bird, each of the bosses who compete for one workman. The motive of class interest is mid-way. It is more than self-interest, because it means that the two bosses or the two cats must combine their forces, must for the time cease their individual struggle, and must join together for common action against another class. Class interest takes a man partly out of himself and gives him the spirit of sympathy and self-sacrifice for the other members of his class against whom he may hitherto have been fighting. Patriotism takes him still further from self-interest—it leads classes and parties to forget class struggles and to join together for common action against a national foe. Foreign war is the extreme case of the patriotic motive. It is found, however, at all times but is not so spectacular.

All these motives exist in different proportions in different individuals and in different proportions in the same individual at different times. Which are the most powerful? That depends on circumstances. When there is no national or class struggle at its crisis, then individuals settle back upon their self-interest. If, however, those who have common interests find themselves imposed upon by another class with common interests, then their class interest becomes a more powerful motive than self-interest. As a matter of fact we find that economists have had their greatest influence at these critical points of class struggle, when they have helped to shape the legislation of a class just acquiring new power. (Classical economists 1815-45 in England. Protectionist economists in United States 1840-1900).

In a free country the patriotic motive is most powerful of all, and dominates all others at periods of national crises. The reason is because in a free country all



classes have an equal share in government and they feel that the nation is the guardian of all their other interests. If there is class domination—if one class oppresses others, and the others have given up hope of getting justice and a share in the government, then class interest or self-interest remains the dominant motive and they will sullenly see their country defeated by foreigners—(compare United States with Spain, Great Britain with India.)

Consequently only in those countries where the class struggle is recognized as such and where the government has been organized in such a way as to give hope of fair play and justice to all the different class interests, is it possible to have this motive of patriotism which looks out for the general welfare. Failure to recognize the class struggle and to make a place for it means despotism of one class over the others. It is to the interest of the dominant class to refuse to recognize this struggle, and the economist who refuses to recognize it is playing into their hands. He is preparing the way for their despotic rule, and that means the crushing out of the spirit of patriotism in the excluded classes. If the economist truly represents society as a whole he should strive to give the excluded classes a larger and more just legal share in government and industry. In that way he would cultivate the motive of patriotism which is the motive to which, as the supposed representative of the whole, he must appeal.

2. *Class Representation*.—President Hadley has with deep insight connected in this discussion the two institutions of representative government and competition, both of which he asserts have broken down or are in the process of disintegration. First, as to representation. I should hold that the break-down of the repre-

sentative system proceeds from exactly the opposite cause from the one he mentions. It has broken down not because it represents classes, but because it has ceased to represent classes. At the time of its greatest glory, of which he speaks so highly, representative government was the representation of an exclusive class, the corporations of merchants and manufacturers and the land owners. The wage earners, numbering three-fourths to four-fifths of the present voters were excluded, also Catholics, Jews, unbelievers. Such a parliament could indeed come together to confer, compare notes, educate the public, and take united action. There are, it seems to me, two fallacies of historical interpretation in President Hadley's account of Parliament and Congress. The first is in seeming to hold that the King was above the party or class system, and the second in holding that representation of localities is identical with representation of classes.

1. He holds that the work of the early parliaments consisted in the creation of a "united public sentiment of the English people," and in rousing them to "resist the extensions of the royal prerogative to which, in the absence of such common action they must separately have fallen victims." I agree with this, but I would point out that what Parliament really did was to arouse the middle class and the excluded classes generally to unite against the dominant class, and that dominant class was simply the party of prerogative, or the court party, with the King as its boss. The King was not some *deus ex machina*, but he was one party to the class struggle. He shared his prerogative with his courtiers and defenders, in the form of monopolies, benefices, offices, privileges, tax exemptions and the like. The excluded parties and classes demanded a share of these

privileges, a voice in the government, and they succeeded in the Bill of Rights, which in 1688 gave parliament a veto on the king, *i. e.*, it gave the aristocracy and the corporations of the towns an equal voice with the king in framing laws. It meant the forcible admission of a subordinate class or party into sovereignty through their chosen representatives, and this is what is meant when we say that England was transformed from an absolute monarchy, or a despotism, to a constitutional monarchy. A constitutional government is one that recognizes the existence of antagonistic classes and opens up its frame-work to the equal influence of the two or three classes in the form of the mutual veto—the King with a veto on Parliament and Parliament with a veto on the King.

2. This brings me to what I consider the second historical fallacy, *i. e.*, the assumed identity of representation of localities and representation of classes. When the representative system originated it was primarily a representation of organized classes and only secondarily of localities. The merchants' and manufacturers' guilds and corporations of the towns elected their representatives in exactly the same way as a private corporation would now elect its president or attorney. They sent their leading men to parliament, and if they did not have a member competent they chose an outsider from any part of the kingdom, just as they might choose a lawyer to plead their cause. Indeed the early parliaments were strictly national conventions of merchants and manufacturers which sent a committee occasionally to the King with petitions, just as similar associations now petition congress. They finally joined with the similar conventions of smaller land owners and the two together

forced permanent recognition with a veto on the king, in the form of the House of Commons.

It happened that this representation of organized classes was also a representation of localities. The coincidence was an accident. It was because the suffrage was limited to a single class in each locality. Only the members of the corporations in the towns and the land owners in the county could vote. Since that time universal suffrage has been adopted on the ground that the wage earner should be represented. But the result has been simply to throw several antagonistic classes into the same constituency, and require them to elect one man by a majority vote who shall represent them all. This was easy enough when but one class voted by itself. It could then elect its own leading representative man. But to throw antagonistic classes into the same pen and require them to elect one man, who should represent all, compels them to elect not a man who represents a class but a *compromise* candidate who represents none. The really leading class representatives have enemies in other classes and cannot get a majority. The compromise candidate has no bitter enemies and he has no enthusiastic friends. He does not stand for principles or convictions. He is simply the tool of the boss. The boss is the man who is shrewd in manipulating these class antagonisms and in selecting these compromise candidates, who can get a majority out of conflicting interests. A system of this kind does not represent classes. It represents localities and irresponsible bosses. A truly representative assembly, framed on the basis of the early parliaments which President Hadley approves, would be one to which the different organized classes elected their own representatives as the older guilds elected their members of parliament. Let the labor unions, irrespective of

locality, come together and elect their members of Congress just as they elect the presidents and secretaries of their unions. They would then elect to Congress such men as Gompers, Sargent, Arthur, Debs and the like. These would be the true representatives of the wage earning class. Let the bankers elect their representatives by themselves. They would elect men like Gage, J. Pierpont Morgan. Let the trusts elect theirs. They would elect Rockefeller, Carnegie, Havemeyer, Flint, or rather they would elect their great attorneys like Dill, Burke Cochran, Joseph H. Choate. The railroads would elect Depew, the express companies would elect Platt. The Farmers' Grange would send its president, Aaron Jones, the Farmers' Alliance would send its president, Gardner, the Anti-trust League would send its president, Lockwood, and so on. In such a Congress these various interests might also send economists, men like Gunton, Hadley, Taussig, on one side, and men like Bemis, Ely, Henry George on the other.

Such an assembly I should call representative in the original historical sense of the word. It would not be exactly suited to modern conditions because the suffrage has been given to many classes which are not yet organized. But it illustrates the principle of true representation. There would be no compromise representatives. Each class would be represented by its ablest and authenticated spokesmen. There would be no opportunity for a boss behind the scenes, who could himself not get elected, yet who would be able to name the spineless trimmers who now pretend to represent the people.

Such an assembly would throw a very different light upon the question of compromise. As long as class antagonisms really exist they will assert themselves, and

the only alternative is civil war and class domination or mutual concession. But it is all the difference in the world as to who are the men who make the concessions. If they are the real leaders of the different classes, then we may look for broad minded, patriotic compromises. For the true leaders of a class must have two leading qualities; they must have tenacity of purpose, but they must also understand the claims of the opposing class, *i. e.*, they must be broad minded and patriotic enough to see that civil war must be avoided, that other classes have rights, and that a point gained now, is a new vantage ground for another point in the future. These are the only kind of men that can permanently lead a class to victories. Labor unions have just such men as their leaders, and so do capitalists, and they are making these compromises every day in industry. What is needed is a representative assembly which will bring them together with the leaders of all other classes, so that they can make similar compromises in politics. But on the other hand President Hadley is right in criticising the present log-rolling kind of compromises. These are not true compromises. They are made by men who represent nothing, who have no convictions, no principles, and are simply usurpers who have by their cunning gotten possession of our electoral machinery. Their so-called compromises are only secret dickers. The evil is mainly a mechanical one and requires a readjustment of governmental machinery, similar to that which was made in 1688 by the Bill of Rights, so that all classes will have their actually representative men in legislation. As long as an economist does not recognize the existence of classes he will fail to see the need of this readjustment of electoral machinery, which shall represent classes.

3. *Class competition.*—President Hadley has drawn a valid distinction between competition of classes and competition of individuals within a class. He has asserted that the kind of competition which economists would see perpetuated is that between individuals within a class, by means of which the other classes of society are benefitted. He says that modern civilized communities have so regulated the struggle for existence that third parties are benefitted. This is unquestionably true as far as it goes. But I would ask, what is meant by the word "community" which he uses? Is it "society as a whole" that has so regulated competition? Society has not done so. On the contrary, it seems to me that the competition of individuals within a class has been forced upon that class by the opposing classes in society. If a class were left to itself its members would come to an understanding. They would get rid of competition between themselves and would agree to exploit the other classes in common. Adam Smith says that capitalists are always in a tacit agreement to keep wages down to a minimum. The way in which competition works seems to be as follows. Members of the same class are in competition with each other. The weaker are crushed out. The number of competitors becomes smaller and smaller. Finally but one is left. The entire institution becomes a monopoly. The head man dominates his own class and dominates all other classes. This phenomenon has occurred in every social institution. Feudalism ended in the absolutism of the principal feudal proprietor and we call the institution an absolute monarchy. The church ended in the papacy. Political parties have ended in the concentration of power in the hands of one man, or of the "machine", and we call it "boss" politics.



Business corporations have ended in concentration in the hands of a small number of directors of a monopolized corporation, and we call it a "trust." The principle is universal. Now when this monopoly stage of an institution is reached, there are three possible alternatives. First, progress may stop. The leaders of the class may hand down their power to successors. In national government we call this "despotism." In politics we call it "bossism." In industry President Hadley would perhaps call it "trusteeism." But it is the same in all. It is rule by the monopolized head of a single class, who distributes among his courtiers, supporters, and henchmen, the prerogatives of his position, and in this way he attaches them to his interests.

Such a system of absolutism always finds its defenders. But they always defend it upon the ground that it is the best thing under the circumstances for the nation as a whole. Bossuet was the eloquent court preacher to Louis XIV. He believed in hereditary absolutism. He thought the selfish wills of antagonistic classes could be crushed for the common good only by the absolutism of superior force. But he was a noble and fearless man. He saw that the power to protect is the power to oppress. He preached often on the "duty of kings." He turned to Louis and said, "O, King, use your power easily, for it is given to you of God for the welfare of men. Exercise it with humility. Do not forget justice, for God, who gives you irresponsible power over others, holds you responsible to Him. The greater your power, the more severely will He judge you at the last day."

I can understand such an attitude of mind. I can understand how the modern economist who sees that our representative government has broken down and has



fallen into the hands of bosses; who sees that we are compelled to govern 10,000,000 Asiatics without their consent and without giving them a share in our government; who sees that the voters in our cities are better governed by Platt and Croker than by themselves; who sees also that our competitive system has broken down; that the managers of our great monopolies have become "trustees" in more than the "accidental application of this word", and that "they are able if they please to misuse this power to the detriment of others without being immediately overtaken by any legal or commercial penalty"; I can see how the modern economist who sees these new developments without seeing any democratic solution for them, should in a noble and fearless spirit become court preacher to the political bosses and the irresponsible trustees. He says to them, "Natural selection has preserved you as the survival of the fittest. It has given these Asiatics, these working men and farmers, into your keeping. Remember your position is one of trust. You are free from competitors. There is no legal penalty for abuse of power. You are not responsible to them. I do not know what God will do in the matter. But anyhow, be good to them. Show them sympathy and justice. If you do not I shall denounce you."

Now, in speaking thus I admit that I exaggerate the position of President Hadley, as he views it. But I see no other outcome of his position, and in a question of this kind we are all to be judged by the practical outcome of our teaching. I have no doubt that an economist who takes this position will accomplish great good for society as a whole. He will have an influence in politics. But notice that he will shut out from political influence all the economists who do not have the ear of the

bosses and the trusts. He is the defender of the institutions by which these men have gained power. As such he has their ear. But he makes a distinction between the good man and the bad man who possesses the power, between their good and bad use of their power. As such he is their needed critic. But other economists who do not endorse the necessity of absolutism or trusteeism, if they are to have political influence, must get it through those classes who resist these absolutist institutions. If they can show that there is another solution to the problem, if they can show that there is a safe and rational method by which these excluded classes can share in the control of these institutions and by which the prosperity of the whole will be at the same time promoted, then the other classes will take up their arguments and will use them as the social justification of their class struggle.

In doing this the other economists will also have an opportunity to emphasize the interests of the permanent welfare of society as paramount to class interest. But the best work of both sets of economists as preachers of social morality will be done when they preach to their own class. As long as their economic arguments are used in the main to justify one class against the others, the others will resent their moral exhortations as impertinent and hypocritical.

I said that there are two different methods by which the excluded classes can attack the privileged classes in their privileges. One is by breaking down the monopolies and exclusive privileges of the dominant class and forcing admission for the *individual members* of their own class. The other is by forcing admission as an *organized class* through their representatives into partnership with the monopolist and sharing with him by

means of a mutual veto the government of the monopolized institution.

The former was the method advocated by Adam Smith. Smith was the radical economist of his time. President Hadley says of Smith that "by showing the efficiency of competition as a regulation of prices and an increase of useful production, he furnished a powerful defense of the existing social order". This is doubtless a prophetic use of the term "existing". If Adam Smith defended the existing social order, it was existing *in posse* and not *in esse*. From beginning to end he attacked the ancient existing privileges of the dominant classes in English politics. These were two classes of what were really hereditary aristocracies. They were the corporations, or guilds, of merchants and manufacturers in the towns, and the landed aristocracy in the counties. The privileges and monopolies which he attacked were found in the laws which they had enacted for their own protection. These were the protective tariffs, bounties on exportation of corn, the statutes of apprenticeship, laws of settlement, laws against combinations of laborers and capitalists, the exclusive privileges of what he called "corporations, trades, crafts, and mysteries", and the majority rule of these corporations by which they tied the hands of the minority. In making this attack Adam Smith furnished the arguments by which the capitalist class were able to enlist the laborers and all the excluded classes in a successful attack on the existing dominant classes. The result was that the monopolies of the dominant classes were broken down by the attack of the excluded classes. Competition was henceforth forced upon the members of the dominant class, and, not only this, but the capitalist class secured admission to these privileged ranks on

equal terms of competition. Thus the resulting competition between individuals of one class for the benefit of society as a whole was itself the great aim and chief result of a class struggle. Had the subordinate class not been successful, then industry would have petrified in an hereditary caste system, as in India, and there would have been no prosperity of the whole.

The other method or democratizing an institution is to get admission as an organized class. This was done by the aristocracy and middle classes in the revolution of 1688 in the case of the national government, wherein parliament was given a veto on the King, and all laws had to be henceforth approved equally by the King, the Lords, and the Commons. This method is necessary where the monopoly cannot be abolished. Adam Smith was able to show how the exclusive privileges could be done away with altogether. It was not so with the institution of government, which had to remain a monopoly and could not go back to feudalism.

We are in a similar position to-day respecting trusts and political parties. If these two kinds of monopolies can be abolished, then there ought to be economists who will show how to do it. The monopoly in politics, or bossism, may possibly be abolished by direct legislation or by proportional representation. If it cannot be abolished then there will come laws like the Primary Reform laws recently enacted in several states, where the rank and file are legally admitted to a vote in the election of the boss. In the case of trusts, if they cannot be abolished, then the other remedy is to give the people a voice in electing the trustees. How this can be done, which method is suitable to different cases, are matters for economists to discover. Only those will attempt the discovery who see the need, *i. e.*, those who

on the whole feel that the welfare of society will be best promoted by uniting the excluded classes for an attack on the privileged classes.

That this points a radical difference between President Hadley's position and mine, and that our contention is not merely one of words, nor is it an obverse and reverse statement of the same position, is shown by the practical conclusions drawn. While he holds that there is but one form of government, namely government by the boss of an institution controlled by such public opinion as the leading thinkers and preachers can bring to bear, I hold that there is another possible form, namely, government by the different interests and classes which hitherto were subject to the boss. This also is controlled more or less by public opinion, but it is essentially different from the former. If we must wait for public opinion, led by economists and social moralists, to control the bosses in industry and politics, then we are only waiting for a harsh despotism to become a paternal despotism. But if we recognize the social classes which are struggling for a share in these despotisms, then we can look forward, not to a persistent absolutism, but to a democratic government of industry and politics, where the subordinate and excluded classes gain a *legal* control over their rulers and are not forced to content themselves with the vagueness of merely *moral* control by public opinion. In other words failure to recognize social classes means paternalism based on the survival of the strongest; while recognition of social classes means self-government based on legalized justice between classes.

In conclusion I believe that the economist in working through social classes is working through the greatest of social forces. Class struggles are a condition that make

for progress, and their absence indicates stagnation. At the same time the economist does not represent a social class in the way that the lawyer, the labor leader or the politician does. He does not depend upon the class for election. He chooses his own ground. He is a pioneer. He begins from the social standpoint, and works to the class standpoint. He sees that social classes are not permanent divisions in society. They are historical categories. They are temporary and shifting. They give way to new divisions. For this reason the economist may even create a class. At least he often unites different classes. This Adam Smith did. The later economists who followed Smith, like James Mill, Senior, Fawcett, were more closely allied to the capitalist class, because they attacked both the aristocracy and the laborers; and they were the economists who have had the strongest influence on politics, for they directly aided in abolishing the protective restrictions and poor laws of the aristocracy. But Smith had not distinguished clearly between capitalist and laborer. At his time their interests had much in common, and he was able to show this and to bring them together. But he did not represent the nation as a whole. He did not represent the aristocratic classes. He attacked them. It may be said that he believed they stood in the way of the nation as a whole, and must therefore be sacrificed for the good of all. If that be so, I cannot see how he can be said to have represented them. They believed that they also stood for the good of the nation, and they resented any claim on his part to speak for them. To the aristocrats actually in the struggle it appeared that they were to be sacrificed for the good of upstart capitalists and the destruction of England. It remained for the succeeding century to answer positively as to which class was right.

Adam Smith doubtless was honest, but so were the defenders of the existing order. In fact they had prestige and history back of them, while he had only his arguments. He was not bitter nor partisan; he was only philosophical. But for this very reason he was compelled to see that the economic institutions of his time were framed in the interest of the dominant classes, and that these classes were but a part of, and actually stood in the way of, the nation as a whole. As economists I believe we would stand on safer ground if, when our conclusions lead us to champion the cause of a class, or of a group of classes, or to expose another class, we should come squarely out and admit that it is so; not because the class interest is foremost in our minds, but because the class is the temporary means of bringing about the permanent welfare of all. We doubtless should always be guided by an honest striving for the welfare of all. We should never be blindly bigoted nor partisan nor committed irrevocably to a class position, with its bad as well as its good. We should be broad minded like Smith. But we should admit that we differ among ourselves, and that our fundamental differences coincide in general with class antagonisms in society. We are a part of the social situation. History alone will decide between us. Our present vision is limited. For this reason we ought to acknowledge that no one man is great enough and good enough to stand solely and at all times in practical politics for the nation as a whole, but that all men in a free republic are also moved by the same spirit of patriotism. We ought to acknowledge that the nation as a whole is represented by the accredited representatives of all classes; that no man can honestly represent a class in which he does not believe. It is out of the combined result of public-spirited men



contending for their own convictions and authorized to speak for others whose convictions are the same, and who are able to make concessions in the interest of all, that all of society is truly represented. Not the individual economist, but the *associated economists* represent the permanent interests of the nation as a whole.

Professor E. R. A. SELIGMAN—*Ladies and Gentlemen*: The time is so far advanced that I shall detain you only a very few minutes by bringing out some of the salient points of difference and what seem to me to have caused all that misconception between the two speakers who preceded me. The views of the last speaker have put such an entirely new light upon the whole controversy that it seems more important perhaps to call attention to what is in my opinion the fallacy underlying many of his own statements rather than to dwell so long as I had expected upon what seem to me some of the weaknesses of our own president's statements. Now in what I see the controversy can really resolve itself into this statement. Here is one speaker who tells us there is no such thing as class interests at work and that all political action and that all economic theory is really formed and guided by our own view of the general future of public interest itself. Here is another class of thinkers who assert that all political action and economic theory is simply the outgrowth of class interests and must always remain so. Now is it not possible that there may be an element of truth in both these statements? Is it not typical of all human advance itself that we have these two elements working away continually among us? On the one hand what we may call the selfish interest, on the other the class interest. Or if you analyze it further we may see that class inter-



est is really a subdivision of the larger selfish interest. Is it not true that every individual is moved not only by self-interest but also by class interest? In last resort, individuals, like classes, like nations, are guided by two different sets of motives—the one the selfish, the other the unselfish; and all social life consists in the result of the balancing of these two motives. Social and political life, on a larger scale, bear some analogy to married life on a smaller. In married life we deal with two individuals, each of whom has been accustomed to look after his or her own individual interest, and who, in the long run, continues to do so. But they find in this union a higher synthesis, a happiness which is based on the sacrifice of self, but which will in the end redound to the best interest of each. It is only in these considerations that we can find a common meeting ground for those philosophers who base their theory of morality on the doctrines of sympathy, and those who base it upon self-interest. It is because in the higher synthesis, self-interest is really transmuted into the common interest. Just as in public finance we speak of the private and the collective interest of the tax payer, so in ordinary economic life we speak of the individualistic and of the socialistic interests of the citizen. Translated into ordinary language we say that every one is guided by two forces—the purse and the conscience. It is often difficult to see in last analysis which is the more important, or which is at any given time the controlling factor. Consider, for instance, what is going on in international morality to-day. There is no doubt that every nation heretofore, as every individual, has been looking primarily after its own interests. And yet, what means this recent movement in the direction of peace? It means that we, as nations, are realizing that our own

self-interest will be benefitted in the long run by being merged in the common interest of humanity, and that, in the final result, there will be this union of self and of common interest. If we were to apply this idea to the problem in hand, much of the seeming opposition will have disappeared. It will be recognized that the world naturally moves forward only by a softening of prejudices and by the effecting of union between warring interests. In representative government we are trying to voice, not the single interests of the individual or those of the class, but the interests of the body politic as a whole, although we can frequently approach that result only through the avenue of self-interest. So far as we are gradually reaching that goal of harmony of interests, it seems to me that representative government is one of the chief forms of progress. It is indeed true that in the last few years we see less importance attached to representative government, partly for the reason that President Hadley mentioned, namely, the fact that the growth of public opinion has taken to a large extent the place of discussion in earlier representative bodies. But it is just this fact that makes for progress, and gives us the hope that, as time goes on, the real harmony of interests which is itself so largely the outgrowth of class struggles, will ultimately be synonymous with the best interests of every class. If democracy means anything at all, it does not mean simply that the third and fourth estates are coming to the front, but that the interests of all are gradually being voiced in this higher union of common advance and social progress.

While, therefore, in the case of political action, there is in reality substantial agreement where there seems to be diversity of opinion, the same cannot be said of the

other branch of the discussion — the attitude of the economist. We would all, I think, agree with our distinguished President in regarding his picture of the economist as the ideal. I should certainly take issue with Professor Commons that the economist can serve the public only through the class. I deprecate very much the acrimony imported into the discussion, and regret that he has seen fit to mention by name individuals as representatives of certain classes. On the contrary, I am sure that all economists will energetically maintain that so far as they know themselves, they are not representatives of any one class. The economist, if he is an honest man, tries to represent the common interest of society. Yet it may be questioned whether our President has not gone too far in the other direction. I listened in vain, although with a great deal of care, for a refutation of what he called the psychological argument of his antagonist. It is true that every individual who discusses social questions does so with a certain personal equation; and the President has advanced no argument to refute this statement. But this equation is not so much the personal equation of any one particular class as the personal equation of the whole body of society as differing from that of other times and places. It is not because Aristotle was a conscious defender of the propertied class in Greece that he upheld slavery. It was because Aristotle firmly believed that the best economic and social interests of that particular time were bound up with the existence of slavery, that no other economic or social system could have existed at that particular time which would have made so much for progress. Again, when we select the economist of the middle ages, or of modern times, it is not because he believes in any one particular class as destined to

succeed that he champions and supports a given policy, but because he firmly maintains that that particular economic system is the one which will be most advantageous to society at large. The statement of Professor Commons that the economist is the representative of a class would, if it were true, prove utterly fatal to the progress of economic science, and to the self-respect of any individual who is attempting to live for the good of humanity. The statesman may have to appeal to class interests in order to secure his practical ends; but the economist, if he has any conception of his real mission, will repudiate with scorn the imputation that he is endeavoring to subserve the special interests of any individual or of any social class.

Professor L. M. KEASBEY: The discussion has taken such a turn that I am not inclined at this point to contribute anything to it.

Professor E. W. BEMIS: From a somewhat extended discussion of this subject with Professor Commons a few days ago, I am convinced that his language is capable of being taken in a different light from that which I am sure he personally feels. It seems to me that the main point in issue is after all a question of what we understand by class interests. I think, for example, that both speakers virtually agreed that we should seek the welfare of most of society, that we should attempt to raise the moral tone of whatever social class or whatever interest will reach the greatest number. I think that they also virtually agreed that we must have conviction, positive action, on questions of the day if we wish to exert any influence upon them. If we have positive convictions, there will result from them positive interests.

The scientific spirit will not necessarily lead us to deny that we have such, but rather to frankly state that we have, in order to guard against being misunderstood, and in order that the personal equation may be made. I think further that they both agree that in so far as we do have positive convictions, that will necessarily mean the antagonism of some dominant and social interest. And to that extent we will either antagonize or favor that dominant social interest in the interest, as we believe, of society as a whole. Now Professor Commons would call that supporting a social class, but I don't think we should call it such a name, and to that extent at least I should disagree; but I don't think it should be called that, for it is done with a view to general society's welfare. So it seems to me that after all there is no such great disagreement as there seems, if we take it for granted that we must approach it from the standpoint of the public good.

Professor MAYO-SMITH said that he did not see how an economist could proclaim himself as the representative of class interests. Every economist like every statesman or politician must declare that he had at heart the interests of the whole community. He might advocate certain measures coming primarily to the benefit of a certain class as ways or means to the general end, but the end itself must be the welfare of the whole community. Take two eminent names—Mill and Lassalle. The former had been classed as a defender of the system of free competition, but at heart he was deeply sympathetic with the efforts of the laboring class to benefit its condition. Lassalle was the champion of the Fourth Estate, but in one of his most eloquent passages, he had portrayed the victory of the Fourth Estate in the com-

ing social revolution as of the highest ethical significance because it meant the triumph of the whole people.

Professor POWERS: I wish the last speaker had carried his argument a little farther. Is it not possible that we may defend the existing order not only without espousing the interests of the dominant class but with distinct regret that its benefits should accrue so exclusively to this class.

Take an illustration. The question of license is up for vote and I decide after much consideration to vote for it. Am I therefore a representative of saloon interests? I vote for what the saloon men want, but I neither consume their wares nor visit their places of business. None of them would have the effrontery to congratulate me on my accession to their ranks. I have voted for what seemed the less of two evils, but regretfully, and without sympathy for those who most conspicuously profit by my action.

My illustration does not express my attitude toward the capitalist class but it is at least a possible attitude. In my own experience there has been nothing to ally me in sympathy or interest with that class, and yet, as the result of a long evolution—exceedingly interesting to myself—I have come to an attitude if not of favor at least of kindly tolerance toward the existing order. Is it not a travesty on my position, on my sympathies and my convictions, to describe me as a "representative" of the capitalist class? I am sure from intimate personal acquaintance with some of those who have been referred to in this discussion as representatives of class interests that they do not so regard themselves, and I am convinced that they correctly estimate their own feelings and affiliations.

Is Professor Commons willing to accept the consequences of his own statements? Is he willing to seem to be actuated by class sympathies or retained by class interests, for such are the implications of the term representative. I confess, from what I had known of Professor Commons, I had conceived a different, and from my standpoint, a higher opinion of him.

PRESIDENT HADLEY: There are two fundamentally distinct methods of government—the legitimate and the illegitimate. Under governments of the former class, be they monarchic, aristocratic or democratic, the government exists by the common consent of the governed. It is, in other words, based on public opinion. Under governments of the latter class, whatever their external form, government rests on the power of the governing class, be it large or small. This is no new distinction. It is as old as Aristotle. The fundamental question for us to decide is which method of government we shall countenance. The complex forms of parliamentary procedure at the present day may obscure this antithesis; they do not alter the fact of its existence. If we are striving to advance the interests of a class we commit ourselves, as far as in us lies, to class government. If we attempt, on the other hand, to promote unbiased discussion in the public interest, we identify ourselves with the principle of government by public opinion. We may, and doubtless shall, make mistakes in attempting to attain this end, but we have set our faces in the right direction instead of in the wrong one. If we represent class interests we may achieve certain petty successes which we should otherwise miss altogether, but this very success creates a precedent of the wrong kind. If we aim higher and strive to be leaders of public opin-

ion, and make our success dependent on the formation of a public opinion independent of classes, we shall doubtless often fail, but our failure will be of a kind which forms a basis of permanent and lasting success, for the nation and for the cause of economic truth.



## SENIOR'S THEORY OF MONOPOLY.

BY PROFESSOR RICHARD T. ELY, LL.D.

We are beginning to recognize more adequately than heretofore the ability of Senior as an economist. When for the first time we examine Senior's economic writings critically, we are astonished to find the extent to which recent developments of economic theory may be traced back to germs in this early economist. The theory of value affords an illustration, inasmuch as Senior makes value depend primarily upon the limitation of utility. The general distinction which Senior makes and emphasizes between subjective and objective elements in economics, affords a further illustration. This comes out, for example, in Senior's discrimination between wages and the sacrifices for which wages are paid.<sup>1</sup>

Perhaps in nothing is Senior more remarkable than in his discussion of monopoly, for in this discussion he gives evidence of an unusually keen analytical mind. Writing in the thirties, when monopoly was, comparatively speaking, so insignificant, he yet saw the prevalence of monopoly in the industrial field more clearly than it has been discerned by writers of our own day, when monopoly has indefinitely greater significance than it had sixty years ago.

And yet, at the same time, in his discussion of monopoly as elsewhere, Senior fails to carry out and elaborate his ideas as fully as could be expected from so powerful a mind. Naturally, any inquiry into Senior's theory of monopoly will first give attention to Senior's idea of monopoly. To begin with, he distinguishes

<sup>1</sup>Political Economy, p. 129, where Senior notices that "it is the privilege of talent to work not only better, but more easily."

sharply between production under circumstances of equal competition and under circumstances of unequal competition, and then proceeds to explain what he means by monopoly and by monopolies, in the following words:

"Now it is clear that the production in which no appropriated natural agent has concurred, is the only production which has been made under circumstances of perfectly equal competition. And how few are the commodities of which the production has in no stage been assisted by peculiar advantages of soil, or situation, or by extraordinary talent of body or mind, or by processes generally unknown, or protected by law from imitation. Where the assistance of these agents, to which we have given the general name of natural agents, has been obtained, the result is more valuable than the result of equal labor and abstinence unassisted by similar aids. A commodity thus produced is called the subject of a *monopoly*; and the person who has appropriated such a natural agent, a *monopolist*?"<sup>1</sup>

Having given this definition of monopoly, Senior proceeds to divide monopolies into four kinds. The first class is of those "where the monopolist has not the exclusive power of producing, but only certain exclusive facilities as a producer, and can increase, with undiminished, or even increased facility, the amount of his produce."<sup>2</sup>

Senior gives as an illustration of this kind of monopoly the production of yarn by Arkwright, who, by means of his patent machinery, was able to produce yarn far more cheaply than could any of his competitors. Senior says, indeed, that "the cost to Ark-

<sup>1</sup> Political Economy, p. 103.

<sup>2</sup> *Ibid.*

wright was not one-fifth of what it would have been to his customers" had they undertaken to produce yarn for themselves. Arkwright, however, found it to his advantage, so we are told, not to produce a sufficient quantity to supply the entire market, but to produce a far less quantity, giving competitors opportunities to produce at a relative disadvantage while he himself pocketed enormous profits.

A second kind of monopolies, according to Senior, is that "which exists where price is checked neither by the hopes nor by the fears of the producer, where no competition is dreaded, and no increased supply can be effected."<sup>1</sup> He gives as an illustration the owner of the Constantia farm, who is able to produce a limited quantity of Constantia wine, a wine, however, which can be produced by no one else, and the supply of which can not be increased even by the owner without an impairment of its quality.

A third class of monopolies "comprises those cases in which the monopolist is the only producer, but, by the application of additional labor and abstinence, can indefinitely increase his production."<sup>2</sup> This is a simple case, illustration of which is afforded by copyrighted books.

"The fourth and last class of monopolies" says Senior, "exists where production must be assisted by natural agents, limited in number, and varying in power, and repaying with less and less relative assistance every increase in the amount of the labor and abstinence bestowed on them."<sup>3</sup> We have here to do with what Senior calls the "great monopoly of

<sup>1</sup> Political Economy, p. 104.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

land." Elsewhere he speaks of these monopolies as "qualified monopolies". The wide prevalence of monopoly is brought out still more clearly by Senior in his discussion of the effects of cost of production on price, where he sums up what he has to say as follows:<sup>1</sup>

. . . . . "We have seen that production may take place under five different circumstances.

1. Absence of monopoly; all persons being capable of producing with equal advantage.

2. A monopoly under which the monopolist has not the exclusive power of producing, but exclusive facilities as a producer, which may be employed indefinitely with equal or increasing advantage.

3. A monopoly under which the monopolist is the only producer, and cannot increase the amount of his produce.

4. A monopoly under which the monopolist is the only producer, and can increase indefinitely, with equal or increasing advantage, the amount of his produce.

5. A monopoly under which the monopolist is not the only producer, but has peculiar facilities which diminish and ultimately disappear as he increases the amount of his produce."

It is only one case out of the five in which we have an absence of monopoly. Senior repeatedly comes back to the fact that monopoly is found everywhere in the industrial field. He says, for example:<sup>2</sup> "It is difficult, however, to point out an article, however simple, that can be exposed to sale without the concurrence, direct or indirect, of many hundred, or, more frequently, of many thousand different producers; almost every one of

<sup>1</sup> Political Economy, p. 111.

<sup>2</sup> *Ibid.*, p. 112.

whom will be found to have been aided by some monopolized agent."<sup>1</sup> Two pages further on he expresses himself still more strongly, as follows:

"When we speak, therefore, of a class of commodities as produced under circumstances of equal competition, or as the result of labor and abstinence unassisted by any other appropriated agent, and consider their price as equal to the sum of the wages and profits that must be paid for their production, we do not mean to state that any such commodities exist, but that, if they did exist, such would be the laws by which their price would be regulated."<sup>2</sup> Illustrations of this view entertained by Senior can be very easily multiplied.

It is apparent that Senior has grouped together different economic categories under the term "monopoly." A little reflection, however, coupled with a careful reading of his discussion, reveals the fact that there is only one concept in which these various categories find unity, and that concept is "surplus value." Senior's discussion of monopoly has as a starting point cost of production. By cost of production he means "the sum of the labor and abstinence necessary to production." We have, according to Senior, what we may call *value of remuneration*, when commodities and services are produced under circumstances of equal competition. In other words, labor and abstinence are remunerated, and no more than remunerated, when all producers have equal advantages. Under such circumstances, the price of commodities "represents the aggregate amount of the labor and abstinence necessary to continue their production." It happens, however, as we see, that very seldom is production carried on under circumstances of equal

<sup>1</sup> Political Economy, p. 112.

<sup>2</sup> *Ibid.*, p. 114.

competition. Wherever producers enjoy unequal advantages, we have surplus value; and wherever we have surplus value, we have what Senior designates as "monopoly." Senior has another name for surplus value in the term rent, which, according to his nomenclature, covers all the gains accruing to monopoly. In other words, monopoly gives rise to surplus value, or to what Senior calls "rent", which is described by him in the following quotation: "But a considerable part of the produce of every country is the recompense of no sacrifice whatever; is received by those who neither labor nor put by, but merely hold out their hands to accept the offerings of the rest of the community." . . . . "if wages and profit are to be considered as the rewards of peculiar sacrifices, the former the remuneration for labor, and the latter for abstinence from immediate enjoyment, it is clear that under the term 'rent' must be included all that is obtained without any sacrifice; or, which is the same thing, beyond the remuneration for that sacrifice; all that nature or fortune bestows either without any exertion on the part of the recipient, or in addition to the average remuneration for the exercise of industry or the employment of capital."<sup>1</sup>

Senior extends the term rent or monopoly gains in a most interesting manner, suggesting again quite recent discussions. The Germans, for example, have been discussing for some time the "gains of conjuncture" (*Conjuncturgewinn*;) but this subject received considerable attention at the hands of Senior over sixty years ago. After having stated that extraordinary gains constituting a surplus over and above average wages may with propriety be termed "rent", he adds:

"And for the same reason we term *rent* what might,

<sup>1</sup> *Ibid.*, pp. 89 and 91-2.

with equal correctness, be termed *fortuitous profit*.<sup>1</sup> We mean the surplus advantages which are sometimes derived from the employment of capital after making full compensation for all the risk that has been encountered, and all the sacrifices which have been made, by the capitalist. Such are the *fortuitous*<sup>1</sup> profits of the holders of warlike stores on the breaking out of unexpected hostilities; or of the holders of black cloth on the sudden death of one of the Royal family. Such would be the additional revenue of an Anglesea miner, if, instead of copper, he should come on an equally fertile vein of silver. The silver would, without doubt, be obtained by means of labor and abstinence; but *they* would have been repaid by an equal amount of copper. The extra value of the silver would be the gift of nature, and therefore rent."<sup>2</sup>

As has just been suggested, Senior likewise extends the term rent to include "the extraordinary remuneration of the laborer, which is assisted by extraordinary talents."<sup>3</sup> Senior brings out very clearly in illustration the significance of rent in the remuneration of those whose present services yield them a large income. He takes the case of a lawyer or physician having an income of £4000 a year. Of this amount he regards forty pounds as ample payment for all the labor that either of them undergoes. Of the remainder he regards £3000 as rent and £960 as profits on "their respective capitals; capitals partly consisting of knowledge, and of moral and intellectual habits acquired by much previous expense and labor, and partly of connection and

<sup>1</sup> The italics are here those of the present writer.

<sup>2</sup> Political Economy, p. 129.

<sup>3</sup> *Ibid.*, p. 130.



reputation acquired during years of probation while their fees were inadequate to their support."<sup>1</sup>

Senior also extends still further his concept of rent or monopoly gains in an interesting manner when he discusses the distinction which inheritance creates between profits and rent, transferring income enjoyed by an individual from the former category—namely, profits, to the latter—namely, rent. When I make improvements in land or build a dock, my return, so far as it is not wages, is profits; but when the income which I have enjoyed passes over to my heir, it is to be designated as rent. This income is something which he receives without previous toil; it is something over and above his earnings, and, accordingly, is to him unearned wealth. It is, therefore, rent. This is a novel extension of the idea of surplus value. Senior describes his idea in this particular in the following language:

"We may be asked, then, whether the improvements which form the greater part of the value of the soil of every well-cultivated district are all, and for ever, to be termed capital? Whether the payments received from his tenants by the present owner of a Lincolnshire estate, reclaimed by the Romans from the sea, are to be termed, not rent but profit on the capital which was expended fifteen centuries ago? The answer is that, for all useful purposes, the distinction of profit from rent ceases as soon as the capital, from which a given revenue arises, has become, whether by gift or by inheritance, the property of a person to whose abstinence and exertions it did not owe its creation. The revenue arising from a dock, or a wharf, or a canal, is profit in the hands of the *original constructor*. It is the reward of *his* abstinence in having employed capital for the purposes of production in-

<sup>1</sup> Political Economy, p. 134.



stead of for those of enjoyment. But in the hands of his heir it has all the attributes of rent. It is to him the gift of fortune, not the result of a sacrifice. It may be said, indeed, that such a revenue is the reward for the owner's abstinence in not selling the dock or the canal and spending its price in enjoyment. But the same remark applies to every species of transferable property. Every estate may be sold, and the purchase money wasted. If the last basis of classification were adopted, the greater part of what every Political Economist has termed rent must be called profit."<sup>1</sup>

Senior did not work out as he might have done the significance of his law of value in its relation to monopoly, making value depend, as he did, chiefly upon limitation of supply. Another thing which he did not work out, but which suggests itself very naturally, is the significance, in a discussion of monopoly, of the law of increasing returns in manufactures. Again and again, Senior emphasizes the law of increasing returns in manufactures, whether we have regard to manufactures as a whole or to the business of one single manufacture; and as the law of increasing returns, according to Senior, here operates without limit, it suggests itself to a modern student that we have a strong monopoly force in manufactures which must ultimately result in the establishment of monopoly, in a very strict sense of the term, in every line of manufacture.<sup>2</sup>

If it be found that monopoly exists everywhere, it is but natural to inquire what is the proportional amount of the income of society which accrues to monopoly. This is an inquiry which Senior has not overlooked, although even from his own point of view it cannot be

<sup>1</sup> Political Economy, p. 129.

<sup>2</sup> *Ibid.*, pp. 104-6.

said that he has been very successful in his discussion. Concerning the gains of monopoly or, in other words, rent, he expressed himself in one place as follows :

"As rent arises from the agency not of man, but of nature, its amount does not depend on the will or the exertions of its recipient. The owner of the land, or of the natural agent, whatever it be, for the use of which persons are willing to pay rent, receives the sum which their mutual competition forces them to give. As it is all pure gain, he accepts the largest sum that is offered, however trifling its amount. Nor, on the other hand, does the amount of rent depend on the will or the exertions of those who pay it. Whatever be the value of the services of an appropriated natural agent, that value must be paid by the person who wishes to use them, as both parties to the bargain are aware that if it is not hired by one applicant it will be by another. The amount, therefore, is subject to no general rule ; it has neither a minimum nor a maximum. It depends on the degree in which nature has endowed certain instruments with peculiar productive powers, and the number of those instruments compared with the number and wealth of the persons able and willing to hire them. There is, probably, now land near New York selling for £1000 an acre, which a century ago could have been obtained for a dollar."<sup>1</sup>

One thing which should be especially noticed in the foregoing quotation is the dependence of the amount of rent upon the resources of those who pay rent or upon what I have termed in my own formulation of the law of monopoly price, "the general average of economic well-being." Here again, however, Senior entirely failed to discover the significance of the suggestion which he threw out.

<sup>1</sup> Political Economy, p. 139.

Surely it suggests itself from all this that the amount of rent is very great, and one giving attention solely to Senior's discussion of monopoly would be inclined to say that according to Senior monopoly must absorb a goodly proportion of all wealth produced. When Senior comes to discuss profits, however, we find him turning sharply away from the conclusions naturally suggested by his discussion of monopoly. He states that comparatively few are dependent exclusively upon wages, probably not one-fourth of the community, and that the rent receivers, using that word in its largest sense, are still fewer; whereas, "the bulk of the national revenue is profit; and of that profit the portion which is mere interest on material capital probably does not amount to one-third. The rest is the result of personal capital or, in other words, of education."<sup>1</sup>

It is impossible to reconcile this statement with his general treatment of monopoly, nor am I aware that he himself attempted any such reconciliation. At this point an optimistic tendency in his nature seems to have asserted itself strongly. But Senior could be severe enough in denouncing monopoly. Speaking of a possible restriction by government of the use of coal to that mined by a single colliery, he says: "The possessor of that colliery would enjoy a princely revenue. But the gain from such a monopoly is not strictly rent; it is oppression and robbery."<sup>2</sup> He also again and again denounced as an iniquity the monopoly due to a protective tariff.<sup>3</sup>

<sup>1</sup> Political Economy, p. 134.

<sup>2</sup> *Ibid.*, p. 182.

<sup>3</sup> See Three Lectures on the Transmission of the Precious Metals from Country to Country and the Mercantile Theory of Wealth. London, 1828. P. 52. Also, Essay on National Property. London, 1835. Pp. 3-4.

Senior had in some degree the disposition of a social reformer. As reported by Thornton, he himself said: "When I was about five and twenty, I determined that I would reform the condition of the poor in England."<sup>1</sup> In various passages in his *Political Economy* vigorous denunciation of special privilege shows us that the fire still burns at the age of five and forty! The large economic significance attributed to education by Senior places him in company with a strong body of humanitarians, while his sharp distinction between gains of monopoly and individually earned incomes brings to mind the doctrines of socialism. In fact, Senior's entire treatment of monopoly suggests to the modern mind many practical applications of his doctrines, and it is not unreasonable to believe that many of our after-day reform movements may be traced back to Senior's *Political Economy* as one of several sources.

But Senior himself did not make these practical applications. And why? One thought which occurs in answer to the question is this: Senior held that the practical application of economic truths does not fall within the scope of economic science. He is very pronounced on this point, thinking that, as many other considerations than purely economic ones enter into practical policy, the economist, as an economist, should be content with stating economic truth, and should let the consequences of this truth take care of themselves, or, to speak more accurately, that he should let others combine economic truth with other truths and thus secure a basis for practical policy. We might then, in this attitude of Senior, find an explanation of a lack of practical application of his principles. However,

<sup>1</sup> Thornton, *On Labor*. Preface.

Senior did not confine his writings to economic subjects, but covered a large field, including such avowedly practical subjects as poor-law reform and education. Moreover, he traveled extensively and conversed with distinguished men of many lands on subjects which interested him. We have thus more than a dozen volumes by him bearing such titles as "Correspondence and Conversations of Alexis de Tocqueville with Nassau William Senior," and "Conversations and Journals in Egypt and Malta." But these other works show the very slightest traces of his economic thought. Imagine one of our modern economists traveling extensively in foreign countries, conversing and corresponding with distinguished persons of our times and concealing altogether his economic views, neither shedding nor seeking economic light! The truth seems to be this: Senior was an able, logically trained man, who, when he was appointed to a professorship in economics and it thus naturally came in his way, temporarily gave himself to economics. Economic science, however, was never a chief end with him; it did not enter into his flesh and blood; it was to him rather a cloak, which he put on for convenience, and, when it had served his purpose, took off decently and laid aside. This explains also why he stopped short of the results which he might have reached, had economics been his dominant and controlling interest.

It has been suggested that he was indolent. I do not know what the foundation for this statement may be. It is certain that he relied on his logical powers, and not on careful study either of phenomena or of the writings of others.

On account of the limitations of time, I will not now undertake to criticize the wide use of the term monopoly

by Senior, nor to show you how strong has been the influence of Senior's discussion upon the evolution of the idea of monopoly in economic literature. Elsewhere I have attempted to define monopoly more narrowly, and to show what I conceive to be the unfortunate effects of the evolution of the idea of monopoly to which I have just referred.

Had a less able writer reached the same results which Senior has reached in his discussion of monopoly, we would, perhaps, be satisfied, saying that he had done as much as could be expected from one writer. With Senior, however, we do not feel satisfied, simply because it seems to us that so able a mind ought to have done more than he did. We feel that we cannot say of him, "he hath done what he could." Yet no one knows the obstacles with which another may have to contend, and we may charitably close this brief discussion with the statement that Senior has done a considerable amount of good work, which, it is now generally felt, has in the past failed to receive adequate appreciation.

## THE PLACE OF THE SPECULATOR IN THE THEORY OF DISTRIBUTION.

BY PROFESSOR HENRY CROSBY EMERY.

The theory of distribution has been so prominent a subject of discussion in recent years that one is hardly justified in raising any part of the question, unless one means to offer the solution of some difficulty or at least to add something especially troublesome to the already existing confusion. Since the present paper does not undertake to do either of these things, it would claim your attention under false pretences except for a word of explanation. It is in fact the theory of speculation, rather than the theory of distribution, which suggests the ideas here presented. Writers on the theory of interest and profits have not infrequently raised the question of how far the assumption of risk is a factor in the process of distribution. On the other hand, the present writer from a study of the practices of a certain class of risk-takers has been brought to the question of how far the gains of this class are to be explained under the prevailing theories of distribution. The intention of this paper then is to *ask* this question rather than to *answer* it, and, in asking the question, to point out certain facts regarding the speculative market which have hardly been adequately considered by writers on distribution.

Mr. Hawley some years ago advanced the theory that the chief characteristic of the entrepreneur is the assumption of risk, and that profits are primarily the reward for risk-taking. Prof. Clark replied that the assumption of risk is the function of the capitalist,

since there can be no talk of risk where there is no capital to lose. Profits, on the other hand, according to this theory, are the reward for the mere work of co-ordinating labor and capital, without regard to the risk involved. Prof. Carver has suggested that the reward for the assumption of risk, which he calls insurance, be made a fifth share in distribution in addition to rent, interest, wages and profit. Mr. John Haynes in an article on Risk as an Economic Factor raised a double objection to this:—

First, that the assumption of risk is not separable from other functions, being always associated not only with the work of the entrepreneur, but also with that of the laborer and the capitalist.

Second, that there are no instances of actual persons acting solely as risk-takers.<sup>1</sup>

This brings us to the function of the speculator and to the problems of risks. Various classifications of risks have been suggested, and here, as elsewhere, different classifications may well be made for different purposes. It will be allowable for the purposes of this paper to distinguish between two classes of risks: the risks of production and speculative risks. Risks of production include the risks of destruction of property, of mistakes in methods, of miscalculation regarding the amount of output, of incompetent service, of incompetent management, of fraud, of danger to life or health, etc. Some of these are borne by the laborer, some by the capitalist, most of them by the entrepreneur. By

[<sup>1</sup>The Fundamental Error of "Kapital und Kapitalzins," by F. B. Hawley, *Quart. Jour. of Economics*, 6:280-307,—also the Risk Theory of Profit, *ibid.*, 7:459-479; Insurance and Business Profit, by John B. Clark, *ibid.*, 7:40-54; The Place of Abstinence in the Theory of Interest by T. N. Carver, *ibid.*, 8:40-61, see footnote on p. 58; Risk as an Economic Factor, by John Haynes, *ibid.*, 9:409-449.]



speculative risks I mean the risks of price fluctuations affecting the whole market,—that is, the distinctively Conjunctur-risks. For the moment the question of the risk undertaken by an entrepreneur who puts new goods on the market is not considered. Such industrial risks are usually called speculative, but by the term speculative risks as here used it is desired to convey the idea of such risks only as result from continuous fluctuations in price, and which have produced a special class of pure speculators.

The distinctions to notice between these two classes of risks are: firstly, that those of the first class affect the course of production, and that those of the second class are outside the process of production. Secondly, the risks of production are risks that will only be realized in the case of scattered individuals; the speculative risks are of dangers threatening a whole class. Loss by fire, or by faulty machinery, for example, falls at any one time only on a few individuals. Every general fluctuation in price affects all holders of that kind of property at once. Thirdly, the risks of production in many cases can be met by insurance; the risks of the Conjunctur cannot. This is evidently partly due to the difference just noted. Insurance, in the strict sense, as suggested by Mr. Haynes and others, is not an assumption of risk by a separate party. The losses to which a group of men is liable, when they fall on individuals are met by the group as a whole. All insurance is mutual insurance. Where an insurance company is a stock company, the amount of the stock is merely an additional guarantee fund. Speculative losses cannot be met by mutual insurance, since they fall on all members of the class at once. These are risks that inhere in ownership, and they can be met

only by a transfer of ownership. Fourthly, this distinction brings out yet another. In the case of insurance, a guarantee of compensation for loss is secured by the payment of recurring premiums of a fixed amount. These premiums correspond to the actuarial value of the risk. In the case of the assumption of speculative risks there are no such payments, but for every risk of loss there is a chance of gain; the only payment for the transfer of the risk is the coincident transfer of the chance of gain. To assume risks in this manner is the function of the speculator.

The practices adopted by merchants and manufacturers in certain lines of trade to protect themselves against any sudden market changes, are doubtless too well known to need further explanation; and yet, to show the nature of the speculator's function as a risk taker, I may be pardoned for recalling briefly the special methods employed. We may take the case of the wheat market as an example, though the same practices are to be found in the market for cotton and other speculative commodities.

Formerly the miller or the wheat dealer who bought wheat ran great risks of loss by a sudden fall in price due to causes which he could not have foreseen. Or, if the miller made a contract in advance to deliver flour, he ran a similar risk of a rise in price. As the market for wheat became a world market, the mere ownership of wheat was attended with enormous risks, and the more the volume of trade increased, the more unbearable these risks became. The rise of the speculative market has made it possible to transfer these risks, to a large degree, to other shoulders. Under the present arrangement the merchant (or the miller), whose agents are buying wheat in the country, knows at a glance

what prices he can offer, following daily the prices on the exchange. Whenever the agent buys wheat, he telegraphs the fact to the merchant or miller and the latter at once sells an equivalent amount for some future delivery period on the exchange at the market price. Suppose the person in question to be a Minneapolis miller who has made his speculative sale on the Chicago exchange by telegraph. So far he has bought wheat in the country and sold wheat at Chicago. The wheat bought is stored in elevators and in course of time made into flour, and, as the flour is sold at market prices, the wheat sold in Chicago is bought back at the market price there and the speculative transaction settled by differences in the ordinary process of clearing. In this way the miller is protected against a fall in the price of wheat by foregoing the advantage of a rise. If wheat falls in value, he loses on his flour sales, but gains an equivalent amount on his speculative sales. If wheat rises in price, he loses in Chicago, but his loss is offset by the high price he gets for his flour, since the price of flour in the main follows the price of wheat.

In the case where the miller receives a bid for a certain quantity of flour to be delivered at a future date, he determines, according to the prevailing price of wheat for future delivery, what sort of an offer he can accept. The contract for the delivery of the flour once made, he promptly buys wheat for a future option in the market. Then as he buys actual wheat in the country (or in elevators) for grinding purposes, he, coincidentally with his purchases, sells out his speculative holdings. Here, too, a gain in either case is offset by a loss in the other, and the results of the fluctuations reduced to practically nothing. The same thing is done by the wheat merchant. He buys and sells wheat, but

he carries two lines, one in the speculative market and one outside. Whenever he makes a contract outside, he makes one of the same amount and of the opposite nature in the speculative market, and is thus protected against price fluctuations. Not only is this kind of protection possible, but it is the ordinary practice among wheat merchants and millers. It is said that nine-tenths of the holdings in the great northwestern wheat depots are protected by being "sold against" in this way.

We have then in the case of the speculative market a method of shifting risks unlike anything else in the business world, and we have a special class whose distinct function it is to assume these risks. Can this special class of risk-takers be subsumed under any of the recognized classes in the theory of distribution? It will be granted at once, I suppose, that the speculator is not a laborer, and that his gains are not of the nature of wages. Is he an entrepreneur? If we adopt the risk theory of profits he might seem to be the most perfect type of the entrepreneur. Evidently, however, he cannot be so considered without a departure from all previous use of terms. The speculator does not employ labor, nor direct the course of production, and somehow we must consider the entrepreneur above all else the directive mind in the field of production. That the assumption of strictly speculative risks is not a necessary part of the entrepreneur's function is seen from the fact that even where the price of the finished product and the price of the raw material are both fixed by previous contract, that is, where these risks are practically eliminated, the manufacturer is still an entrepreneur. To deny to the modern miller the name

of entrepreneur is to throw our whole nomenclature into confusion.

Nor is the speculator an entrepreneur of the merchant type. The merchant is not so distinctly an employer of labor as the manufacturer, but he is concerned with the problem (which is on the whole one of production) of getting goods from the hands of the producer into the hands of consumers; and his share of the annual product is his reward for this service. But the function of the speculator is different. The trader buys in one market and sells in another; he buys of the producer and sells to the exporter, or he buys of the jobber and sells to the retailer, or he buys of the wholesaler and sells to the consumer. Between these different markets there are differences in price, not temporary fluctuations, but continuous and normal differences. The trader's service to society consists in getting goods from one market into the other. His normal profit consists of the normal margin between the prices in the different markets. The speculator's profit, on the other hand, comes from fluctuations in price in the *same* market; he may buy from and sell to the same person and still perform his function. His profits are not made up of any normal margin between prices, but from temporary fluctuations, and these profits are his reward for the assumption of the risks that accompany such fluctuations.

It is evidently much the same with the manufacturer. He too buys in one market and sells in another between which there is a normal difference in price. Even where the protection of the speculative market is secured, there still remain to the entrepreneur various risks of production, and to the merchant the purely trading risks. There are still many problems to be

settled by each, problems of methods and of policy, and their shares of the annual product depend upon the success with which they meet these problems, which are problems of competition with their rivals, though they have largely avoided the dangers which formerly confronted them and their rivals alike.

But if the producer has secured a method of avoiding these risks, what has become of the extra reward or profit, which he formerly obtained (when successful) for the assumption of such risks? If he does not perform the service, we should expect to see his reward diminished; and that is exactly what we do find. The old profits of the miller, the grain merchant, the cotton merchant and the spinner are not forthcoming to-day. The primary reason is that a large part of their old profits was reward for risk-taking and that the transfer of the risk means also the transfer of the profit. Formerly a wide margin was always allowed for risk between the selling price and the price that the merchant would offer the producer. That margin has been completely wiped out and now the merchant pays the price of the central market to the producer, less the legitimate trading costs. There is frequent complaint from cotton spinners that their business has been hurt by the speculative market, and a prominent miller supported the anti-option bills before Congress largely on the ground that the miller for the same reason was put at a great disadvantage in his purchases. In other words he was not satisfied with purely manufacturing profits and he still yearned for the speculative profits of the past. There could be no better illustration of the distinction between the reward for assuming speculative risks and the reward for the performance of the entrepreneur's function, than this division between two classes of the

share in distribution formerly accruing to the one class which performed both functions. The principle involved is not affected by the fact that the risks are never completely transferred or that this practice is only possible in the case of certain industries. It is worthy of note that in the case of certain other industries of a speculative nature the risks had become in like manner a great hardship and that they have been, not transferred, but avoided by another method, viz: that of monopoly control. In some cases there seems a choice of means. For example, the sugar refiners in this country have adopted the monopoly method, while in Germany the refiners have sought the protection of the speculative market.

Shall we, then, call the speculator a capitalist, and consider the assumption of risk a function of capital? Is not this an equally unwarranted misuse of familiar terms? The capitalist, as a claimant to one of the shares in distribution, is in control of one of the means of production. His function is to supply capital for continuous use in the process of production, and this use adds to the flow of wealth out of which the reward of the capitalist comes as a recurring yield. Or, if the element of insurance in interest be considered, this too is a recurring income. But the speculator does not put his capital to some use in production and does not expect a recurring yield. He is concerned, so to speak, not with putting it to some use, but of putting it into different forms. Mr. Hawley says that under Professor Clark's theory the capitalist gets two returns, one for using his capital and one for venturing it. We might almost say that the speculator does not use his capital but merely ventures it. It is doubtful whether we should speak of a rate of speculative profits at all. The



speculator is not an investor and probably does not introduce the time element into his calculation of profits. The gain of the speculator is a separate one for each venture. The reward to the entrepreneur or to the capitalist is roughly proportional to the duration of time in which their respective agents of production are used. But is this the case with the speculator? or does he consider his gains as an income from the capital with which he started? Does it not go into the same pot as an increase of capital? In other words, while the recognized shares in distribution are best considered as a flow of wealth, should not speculative profits be interpreted as changes in the relative values of different parts of an existing stock or fund?

To conclude: The assumption of speculative risks is a special function, as shown firstly by the fact that it is not a necessary part of the function of any of the three classes commonly recognized, the laborers, the capitalists, or the entrepreneurs; secondly, by the fact that it is the sole function of a class which does not have the characteristics of any of the classes just named. The main theory of distribution, however, must deal with the rate of production. According to the most commonly accepted theories, the laborer, the capitalist, and the entrepreneur have their shares of the product determined by their contribution to this rate of production, and their sacrifice in making this contribution. There are risks of production which each class must face, and these risks vary in different lines of employment, of investment, and of enterprise. The rate of wages, interest and profits will normally vary in these different lines since the actuarial value of these risks can be roughly computed. They are risks that



threaten the individual, and the losses can be made good by a rate of insurance.

Speculative risks, on the other hand, are not to be considered from the point of view of a certain quantity of production within a period of time, but from the point of view of differences in relative values at fixed moments of time. They are not to be met by means of recurring payments similar to insurance premiums, nor are speculative profits to be explained by principles which determine the shares of the different productive agents according to the rate of production. They are not determined by any marginal efficiency or marginal sacrifice of the speculators. They are not determined by law of rent which is concerned with increased rates of production due to differential advantages in the productive process.

This does not mean that the speculative market is not an aid to production. It is difficult to see how a great world trade in such staples as grain and cotton would be possible without it. Speculative risks, however, stand in a way outside the *process* of production, and speculative gains constitute, not a coördinate share of the annual product with wages, interest and profits, but rather such claims to the product as are represented in all property rights. 7.5

So far we have considered only the risks of continuous price fluctuations and the gains of a class that may be called professional speculators. The risks and the gains of this class differentiate themselves easily from the risks and gains of production. There are, however, risks which the entrepreneur usually carries which may be thought to be primarily speculative and yet not to come under the principles here suggested, that is, the

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risk of the entrepreneur in producing something for which there is no certain demand. The extreme case of this is where an entirely new product is put on the market in the hope of hitting some whim of public taste. These are, to be sure, risks of an unfavorable price for the finished product, and yet they are not the same risks to which the term speculative has been applied above. There is a difference between the anticipation of a new demand or a permanent fall in price due to improvement and the temporary and continuous price fluctuations of the speculative market. It is interesting but not theoretically important that these latter fluctuations are chiefly in raw materials rather than in manufactured products. It is not confusing the production of material goods with the creation of utilities to distinguish between continuous fluctuations of this nature and the risks incident to a normal future demand.

It may be then that the theory of speculative gains here suggested will be of little importance in the consideration of the ordinary industrial risks of the entrepreneur. But if the purely speculative risks are *sui generis*, that part of the gains of the entrepreneur which is due to the assumption of just such risks must be explained as purely speculative profits.\*]

Mr. STUART WOOD: I have listened with much interest to the suggestive and stimulating paper of Professor Emery. In commenting upon it I would wish, first, to discriminate between the different kinds of speculation. I take it that this, properly speaking, is

\* For permission to publish Professor Emery's paper the American Economic Association is indebted to the editors of the *Quarterly Journal of Economics*, to whom it had been promised before the Council of the Association directed the publication of all the papers read at the Twelfth Annual Meeting.

of one of two kinds. The first kind consists of transactions into which both parties enter from speculative motives, one party betting, as it were, on the fall of price, and the other party betting on its rise. Here the losses of one speculator exactly equal the profits of the other, and such transactions add nothing to the wealth of the community. This form of speculation is, in its essence, gambling, and as such there attaches to it something of the same odium that belongs to the gaming table; and, as in the case of gambling establishments, in this form of speculation professionals are often ranged against amateurs. The amateurs are called lambs, because it is their nature to be shorn.

The other form of speculation occurs when the speculator deals with a second party whose purpose is not speculation, but insurance, and this, of course, is the kind of speculation to which Professor Emery's paper refers. The second party is thus insured against the risk of fluctuation of prices, and this insurance is to him a valuable consideration, as truly as insurance against fire or storm. The payment, it is true, for this kind of insurance is made in a different way. In the one case the insured pays a fixed annual premium in consideration of a guarantee against loss; in the other case he accepts a guarantee against the chance of loss, and he pays for it by surrendering a chance of gain. He obtains a surplus value in the exchange, because it enables him to direct his energy and thought to the other factors of his business; and so great is this gain to him, that he can afford to exchange the conflicting chances at a rate which leaves a margin or balance of chances in the speculator's favor, which margin is the source of the speculator's profit.

While the individual is benefitted in this manner, this

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after, does it?

fact would not of itself increase the productiveness of industry or the net income of the community, if the effects of the transaction stopped here. What, then, is the benefit which the community at large receives from the transaction? The function of speculation in moderating the fluctuations of price, and in directing the industries of the country into profitable channels, has been often set forth. It is the business of the speculator to foresee the course of future demand and supply, and so conjecture the course of the future markets. His action, therefore, tends to forestall future changes of price and brings into play the forces which mitigate such fluctuations. There results a greater stability of price, and industry is in this way more promptly directed into the most profitable channels. We may illustrate this by the cotton market, which is one of the most highly organized of all markets. Liverpool is the centre of the trade, and the price for the whole world is fixed there daily, by the competition of the best informed and keenest minds engaged in this business. This price is wired immediately to every village in the world where cotton is bought and sold, and according as this price is more or less tempting, the farmers bring forward their crop and put it on the market more or less rapidly, and what is of still greater importance, as they are satisfied or discontented with this price, they decide how great or how small an acreage to plant in cotton for the succeeding year. In this way the effect of speculation is to bring into existence, as nearly as can be arranged in advance, so much cotton, and no more, as is required at any time.

The fact, however, that the speculator renders service to individuals or to the community, does not in itself indicate why or how he obtains payment for them. It is not the custom of mankind to pay for services or

utilities which can be obtained gratuitously, or else we would be paying every moment for the air we breathe. But, of course, the speculator would not render these services unless he expected to be paid for them. The question, then, resolves itself into this: What enables the speculator to render these services to others? The answer seems to be, that he is enabled to obtain the profit which pays him for his services, for the reason that he possesses a knowledge of existing conditions and a skill in estimating their remoter consequences, which enable him to judge better than others what future prices will be. It is true that he generally has some capital, which is required as a guarantee for his transactions, and on this he must realize the ordinary rate of interest, together with such profit as is usually paid in hazardous lines of business. He must also receive compensation for his labor and for his outlays in obtaining information and in conducting his business. But these things represent only a small part of speculative profits.

The preponderating and the distinctive element in speculator's profits is really a payment for knowledge and skill, just as is the case with the earnings of a lawyer, a physician, an engineer, or an entrepreneur. Because he can forecast the future course of prices better than other people; because he knows better than other people upon what odds the wager of advance in prices can be laid against the wager of decline in prices, and makes his transactions with this knowledge, he is able to secure a margin in his favor in the exchange of chances, and according to the perfectness of his knowledge and the sureness of his foresight will be the resulting profit to himself. If one speculator's profits, in the long run, exceed those of another speculator, this is due (aside from the influence of chance, which is always

present) to his superior knowledge and ability. In this way it can be said that the law of speculator's profits bears a certain analogy to the law of rent, an analogy which is none the less true because the means of payment are so diverse, the rent of land being one of the most certain forms of income, and speculator's profits being one of the most uncertain forms. Here, as elsewhere, the law of averages obliterates the divergences of single instances.

Professor CARVER: I wonder if, after all, we cannot include speculator's profits under the same class with those of the entrepreneur. At least it seems to me that they belong with producer's surplus, since the speculator is really a producer of time utility. That is to say, if we are speaking of the legitimate speculator, whose business it is to buy when goods are cheap and sell them when they are dear, we must regard the profits of such transactions as payment for an actual service to the community. When goods are abundant and cheap, they must be put to inferior uses unless some one is willing to hold them for a better market. At the same time, if no one were to hold the goods and they were put to an inferior use, when the period of scarcity came the scarcity would be much greater than it would if the speculator had held goods for the purpose of selling them at just such a time. This is production just as truly as it is for some one to put up ice in the winter when it is cheap and abundant and sell it in summer when it is dear and scarce. Moreover, it is production just as truly to carry goods from a *time when* they are cheap to a *time when* they are dear as it is to carry them from a *place where* they are cheap to a *place where* they are

dear. Yet no one would deny that a railroad is a productive agent.

This is, of course, only an elementary form of speculation. The actual speculation as it is carried on in the great centres appears, at first sight, different. The changes in price have become almost microscopic in amount as well as in time covered by the fluctuations, so that it seems difficult to see where the real production comes in. But it seems to me that the essential nature of speculation has not changed. It still consists in buying when goods are cheap and selling when they are dear. But owing to the intensity of the competition in this most competitive of all forms of business, the fluctuations are so rapid and sometimes so microscopic in amount as to bewilder us in our attempts to bring the business under any rule of production.

Mr. GIDDINGS thought Mr. Emery's paper and Mr. Carver's discussion admirable examples of close theoretical analysis. He doubted, however, if the function of the speculator could be described in terms of economic production. The speculator increases social utility by determining the rate and the time of the consumption of products, rather than by affecting production or raising or lowering average prices in the long run. He does not in the long run produce value. Possibly, therefore, Mr. Emery's difficulty could be explained by asking whether speculation is not a phenomenon to be studied under the theory of consumption, rather than under the theory of production.

President HADLEY: I am disposed to agree with Mr. Carver, and to take issue with Mr. Giddings. The analogy between the work of the speculator and that of



the ordinary trader in their uses of capital seems to me a little closer than is implied in Mr. Emery's paper. Those persons who use their capital in transportation carry goods from place to place, and earn a profit by so doing, most of which is in the nature of interest. To carry goods over from time to time, which is the work of the speculator, a similar use of capital is necessary; and his profits therefore have the same interest element contained in them. The trader puts his capital into wagons; the speculator puts his into cash reserves. The gain of the latter is made by using money to carry goods. This cost of carriage is represented by the current rate of interest on floating capital.

What is it?  
Mr. EMERY: As for Mr. Carver's objection I admit that speculation is productive, but the difficulty of including a speculator among the entrepreneurs comes in, as I have said, when we are to consider distribution. The gains of the speculator cannot be explained by the same theory that explains the rate of entrepreneur's profit, and this fact is certainly suggestive of difficulties in the attempt to include the speculator in the entrepreneur class in the theory of production.

Mr. COMMONS: We may identify the speculator with the entrepreneur by means of Mr. Emery's suggestion as to insurance. Just as the stockholders of an insurance company afford an additional guarantee to the insured, so the speculator uses capital which Dr. Hadley says he has obtained on interest, to afford an additional guarantee against losses by fluctuations of prices.

Professor RIPLEY: Mr. Emery has illustrated his argument by reference to businesses in which the part of the speculator and of the entrepreneur are separated



as in the case of the wheat miller and the dealer in wheat options, but in many industries these two functions are joined in one man. The manufacturer of boots and shoes, for example, buys leather for shoes that he will sell six months hence; and he sells the same day an equal amount of leather made up into shoes for which he had bought the leather six months ago. He is continually carrying goods from time to time at the cost of borrowed capital, and thus appears to be both speculator and entrepreneur. Yet on analysis it may be found that the element of speculation is largely eliminated by reason of the unbroken continuity of the transactions. Covering long periods of time, the chances of gain and of loss tend to equalize. The difference between such operations and those of the speculator is that in the case of the manufacturer there is little interruption to their even course; while the speculator stands outside of the business world and seeks to engage in operations only at irregular intervals, when profits, either for a fall or a rise, are in sight.

Mr. EMMERICK raised the question whether on the whole the speculators as a class really get anything out of their activity, as Mr. Emery assumes that they do.

Professor CARVER: I am quite willing to admit, with Dr. Wood, that speculators' profits are payment for knowledge and skill, *in a certain sense*. But that still leaves the problem unsolved, because it does not explain what that knowledge and skill are worth. Knowledge and skill are not ordinarily paid for unless they are good for something. It was my purpose, a few moments ago, to show that the speculator performed a real service, that he was a producer. Dr. Wood's theory is, there-

fore, incomplete and needs a further explanation to show why the knowledge and skill of the speculator were paid for.<sup>1</sup>

Mr. EMERY: I wish only to reiterate that it is both possible and customary in the case of some trades to separate the speculator and the entrepreneur in fact, and that it is consequently possible to make this separation in analysis. Whether or not such a separation in analysis is necessary is a question which the paper was meant to ask, rather than definitely to answer. It still seems to me, however, that the gains of the speculator are of such a nature that they cannot be accounted for by any accepted theory of distribution dealing with the annual returns depending on the rate of production.

[<sup>1</sup> In reviewing his remarks Dr. Wood expanded them somewhat, perhaps meeting in part the objection which Professor Carver had brought against them in their oral form.—SECRETARY.]

## TAXATION AS A PARTIAL SUBSTITUTE FOR BORROWING TO COVER THE COST OF PER- MANENT MUNICIPAL IMPROVEMENTS.<sup>1</sup>

BY PROFESSOR E. DANA DURAND.

The rapid increase of municipal debt has often been a source of apprehension to city-dwellers and to thinkers interested in the welfare of cities. It has been said that a large proportion of such indebtedness, especially in our American cities, has been due to extravagance and corruption, to the accumulation of floating debts until their funding became necessary, to borrowing for nominally permanent investments which should properly have been considered current expenditures. By these means, it is urged, the present generation squanders the city's patrimony. It is considerations of this nature that have led to the enactment, in a large proportion of our states, of constitutional and legislative limitations on the power of cities to incur debt.

Most publicists and students of finance, however, believe that there is properly a wide field for municipal borrowing. They tell us that it is not the use but the abuse of debts that is to be condemned. The rapid growth of cities, the increasing dependence of the individual upon his fellows as population becomes more dense, the constantly rising standards of wants among the citizens, and the immense improvements constantly being made in the mechanical means of satisfying these wants, have demanded and are demanding a sudden and great development of relatively permanent public works

<sup>1</sup> Some modifications have been made in this paper since it was read, on the basis of suggestions by Professor John C. Schwab and Professor H. H. Powers, which the writer gratefully acknowledges.

involving heavy expenditure. Granted that such expenditure is to be made, most writers on finance hold not merely that it may wisely but that it must properly be met by the creation of debt. Thus Professor Adams points out that the engineering interest, requiring that such works be promptly executed, and the financial interest, forbidding sudden excessive increases in taxation, demand resort to borrowing in such cases. He suggests that the duration of the debt should be regulated in part by the probable length of time before the work or improvement for which it was incurred will need to be replaced; and thinks it would be legitimate enough, under certain circumstances, that the bonds for a park should be of perpetual duration, the interest being considered in the light of an annual rental for a permanent privilege.<sup>1</sup> The same and other writers add that the greater certainty with which estimates of future revenues and expenditures may be made in the city, as compared with the state, especially justifies a wide use of municipal credit. Particular stress is laid on the desirability of meeting by means of bond issues the cost of undertakings of a *quasi*-private nature, which can be made to earn a revenue to cover their own debt charges.

To these general principles concerning municipal debt most of us will give ready assent. But it may not be superfluous to remind ourselves also how wide may be the application, in a huge and growing metropolis, of another tenet which financial writers have laid down with emphasis on its significance in national rather than in local financiering. Thus Wagner,<sup>2</sup> among others, points out that the capital investments of nations, at least the smaller investments, such as those for new

<sup>1</sup> Adams, "Public Debts," 314, 315.

<sup>2</sup> Wagner, "Finanzwissenschaft," I, 166.

buildings, often tend to become quite uniform in amount from year to year. Whereas similar investments by small local governments would be rare and properly made out of borrowed money, for the larger financial economy they are often essentially recurrent and should be paid for by ordinary revenue. In accordance with this principle we find that our own federal government, for example, rightly meets out of current income practically the entire cost of new public buildings, fortifications, war-ships and similar constructions of a relatively enduring character.

We are apt to overlook the fact that our great cities are coming to resemble national governments not a little in the magnitude and variety of their enterprises. The full importance of the principle we have just mentioned in its bearing on municipal finance is scarcely appreciated in most quarters. Attention has, to be sure, been frequently enough called to the fact that, with the rapid growth of our cities, expenditures for certain kinds of public works tend to recur with approximate uniformity, even though each particular piece of work done may be in a sense a permanent improvement. However much the practice of some cities may violate the rule, it is fairly well understood on all hands that such expenditures as these ought to be covered by taxation, not by borrowing. But when works of this sort are spoken of, those usually in mind are practically limited to two classes—street improvements and minor public buildings, such as school-houses, etc., which must be extended steadily with the growth of the city in territory and population.

It is a less familiar thought that in a very populous and growing city, the expenditures for much larger and more general enterprises of a permanent nature also

tend toward a certain degree of regularity. The influences to which we have already alluded as partly justifying the present large indebtedness of cities conspire to make constantly recurring demands for new bond issues. Concrete illustrations will make the effect of these influences more apparent.

It has often been the experience of great cities that a water system deemed sufficient for a century has been comparatively soon outgrown by the extension of the city, and by the demand for increased consumption *per capita*. The old plant must be continually enlarged; there must be new pipes, new pumps, new reservoirs at the source of supply, and in or near the city itself. At the same time the rising standard of public opinion regarding the sanitary character of water, or perhaps the increased pollution of the water from the growth of the city itself, or of other places, requires new outlay for purification processes. These same circumstances are likely sooner or later to drive the city to add to or replace its existing water system by another having an entirely new source of supply. The expenditure for this new enterprise will often be made, not in that sudden fashion with which we sometimes think of public works as leaping into life, but by instalments covering quite a series of years, during which the city contents itself with the old supply, or with the gradual introduction of the new. Putting all such expenditures as these together, there is apt to be found a rough regularity in outlay, if not from year to year at least from one period of a few years to the next.

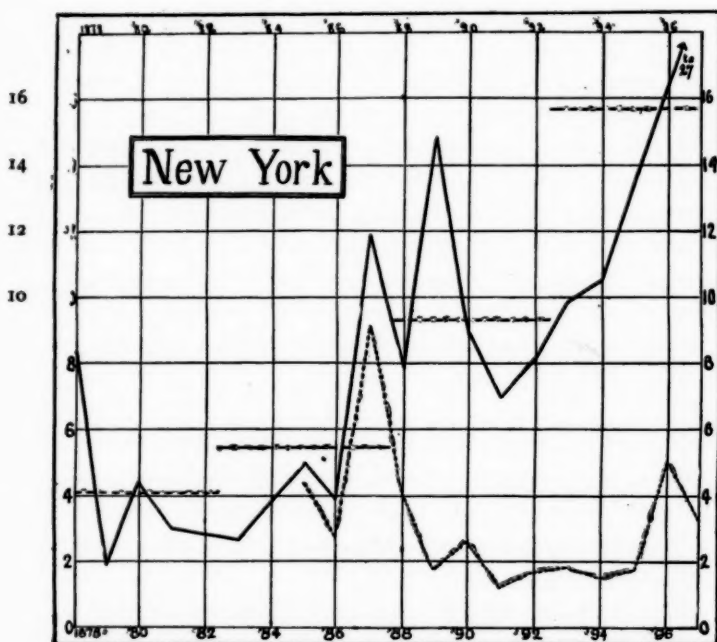
A similar experience is met by the great city with its public parks, squares and boulevards. Growth of population, and increased desire for recreation and air for all classes of citizens, call for the opening of new spaces, in

the outskirts of the city and in the crowded old sections as well. Existing parks must, in the meantime, be improved and beautified. There is thus almost constant demand for new capital investment. It could readily be pointed out how the same general condition of affairs would be apt to manifest itself regarding bridges, sewers, public buildings, gas works, and other enterprises.

If now in regard to any one class of public works the great modern municipality often finds necessities for new expenditures arising in a somewhat uniformly recurrent manner, it is self-evident that outlay for all of the different classes of works taken together will be likely to approximate still more toward regularity in amount. The fluctuations in expenditures for different purposes tend to offset one another. Moreover, even if unusually large expenditures are called for in some one or two years, they will probably be counterbalanced by lower expenditures in the immediately following years, so that by taking short groups of years as our units the regularity in outlay becomes much more marked. Of course, this tendency is only a tendency; the regularity in any case is only a rough one. It may happen, as we shall point out more fully later on, that peculiar circumstances may cause the needs for new permanent improvements to stand for a considerable period far above the average. But ordinarily such needs themselves tend to arise successively, rather than concurrently. Moreover, the capacity of city officers to give thought and effort to great undertakings is limited, so that they feel less disposed to take up several enterprises at one time. The people, too, even where the money for such works is entirely borrowed, are usually too jealous of expenditure to permit the outlay for new improvements to remain for any number of years very greatly above the average

to which they have been previously wonted. Considerable variations in the amount invested in different years or groups of years are, of course, to be expected, and occasionally large variations, but, broadly speaking, there is a distinct tendency toward recurrence and regularity.

The point we have been developing from general considerations may now be illustrated by the statistics of



Vertical scale reads in millions of dollars.

the amount of bonds issued annually by various great cities. We may premise that the probabilities are that bond issues themselves fluctuate somewhat more from



year to year than the actual expenditures of money on works paid for by borrowed funds.

Referring to the diagram showing the yearly issues of bonds by New York City from 1878 to 1897,<sup>1</sup> a first glance at the sharp upward and downward movements of the curve seems to show quite the opposite of a tendency toward uniformity. But each angle represents a single year only, and where we group years by twos, threes or fives, we discover a much greater regularity in outlay. Thus the very large borrowings of 1887 and 1889 are offset in part by small loans in the preceding, intervening and following years. By taking the average for groups of five years, as shown in the broken lines, we see quite a steady geometric rate of increase in the amounts borrowed. In only one year, 1879, have bond issues amounted to less than two millions, while since 1887 they have never fallen below seven millions.

The most satisfactory method of judging the degree of uniformity in the bond issues from year to year is, perhaps, by calculating the percentage of variation from the five-year averages, that is, the percentage by which the sum borrowed each year stands above or below the average for the group of years in which it belongs. It will be found that in nine out of the twenty years the variation from these averages in New York has been less than 25 per cent., and in fourteen less than 50 per cent. The average of all the percentages of variation is 36.4 per cent. The largest excesses above the average are respectively 118 per cent. and 105 per cent.; the largest

<sup>1</sup>Compiled from figures in Durand, "Finances of New York City," p. 320, and in "Annual Report of the Comptroller of the City of New York," 1897, Statement B, II. Here and in the figures for the other cities refunding and temporary bonds have been omitted where separable.

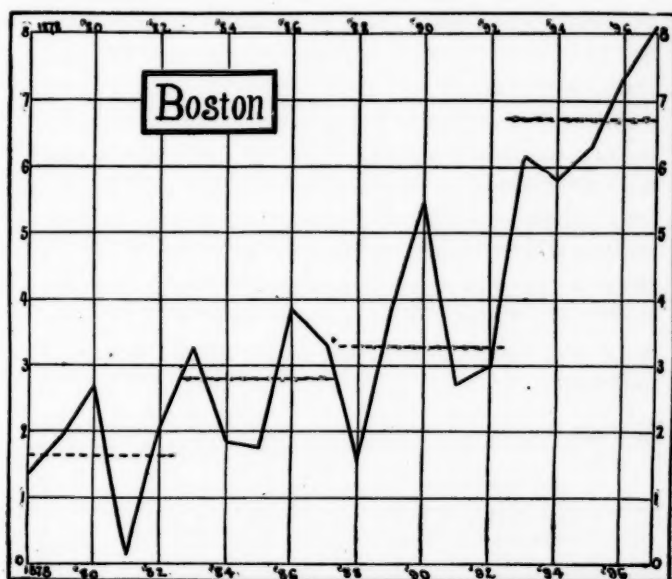
variations below the average are 55 per cent. and 51 per cent.

The point that a rough sort of regularity may attend the capital expenditures for even a single form of enterprise is illustrated by the annual bond issues of New York for water supply since 1885,<sup>1</sup> indicated by the dotted line. The second great Croton Aqueduct was begun in that year, and, although the expenditure was greatest during the first few years after its inception, water was not actually brought to the city through the new conduit for nearly a decade. Meantime and since continual expenditure has been necessary for impounding more water, protecting its purity, and for other purposes. The bonds issued for water purposes have in no year fallen below one million dollars, and have usually ranged more nearly two millions. The Greater City is already considering the necessity of further water supply for the borough of Brooklyn.

It may be said that New York is so much larger than most even of our great cities as not to be fairly typical of their financial conditions. Unfortunately, data are not at hand to trace the annual bond issues of any considerable number of cities. Even were this possible, however, many American municipalities would be far from showing in their borrowing a normal course of development. Constitutional limitations, popular distrust of rulers, short-sighted policy in neglecting needed public works or leaving them to private enterprise, have kept many of them from spending what a progressive city should for permanent improvements. This is, in part, the explanation of the small indebtedness of Chicago and San Francisco, and of the slight new loans which

<sup>1</sup>Compiled from Comptroller's Report, 1893 and 1897, Statement B, II.

St. Louis and Philadelphia have incurred during the past fifteen or twenty years; although to some degree these cities have resorted to taxation to pay for public works. More typical, I think, of our cities of the second class, are Boston and Baltimore, both of which make free—often, doubtless, even from the standpoint of the ordinary financier, too free—use of their credit.



Vertical scale reads in millions of dollars.

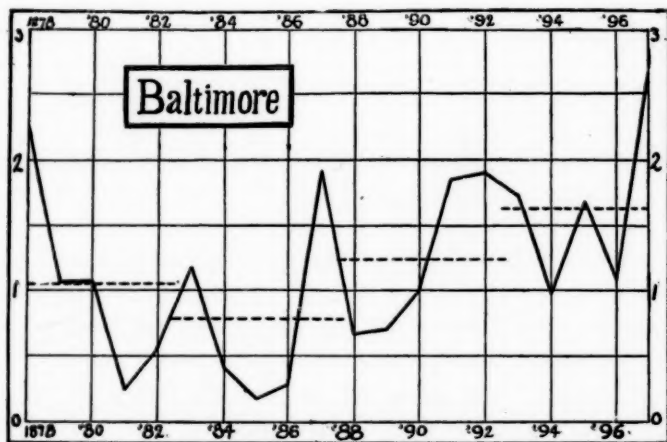
The line showing the amounts borrowed by Boston for the years 1878-1897,<sup>1</sup> fluctuates somewhat less than in the case of New York. Taking the average for five-year periods, we find an arithmetical rather than a geometrical increase, except for the last period, when

<sup>1</sup> Boston, "Report of the City Auditor," 1896-97, p. 211.

several well-known great enterprises, undertaken simultaneously, have caused exceedingly large bond issues. Since 1884, the bonds issued have in no one year fallen below \$1,500,000.

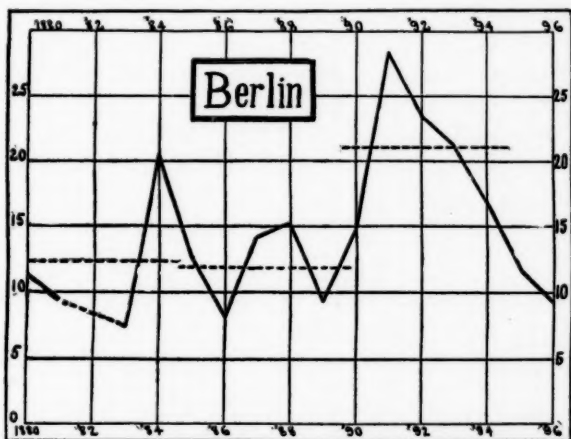
The debt created during twelve of the twenty years has varied in amount from the five-year average by less than 25 per cent., and in sixteen years by less than 50 per cent., the average of all the variations being 29.2 per cent. The highest percentage above the average is 66.1 per cent., the two lowest respectively 92.4 per cent. and 53.5 per cent.

Although the figures for the annual loans of Boston for any one specific purpose are not available for any considerable number of years, the statistics showing the amounts expended for water supply from year to year, including both current and capital outlay, together with those of the gross water debt, seem to indicate that, like New York, Boston has found needs for new investments in its water system recurring with a certain degree of uniformity.



Vertical scale reads in millions of dollars.

The diagram showing the yearly borrowings of Baltimore<sup>1</sup> presents slightly greater fluctuations than in the case of New York or Boston, the minima during all but one of the years from 1881 to 1886 being especially noticeable. Nevertheless, the regularity is sufficient to strengthen our general impression concerning the tendency existing in great cities.



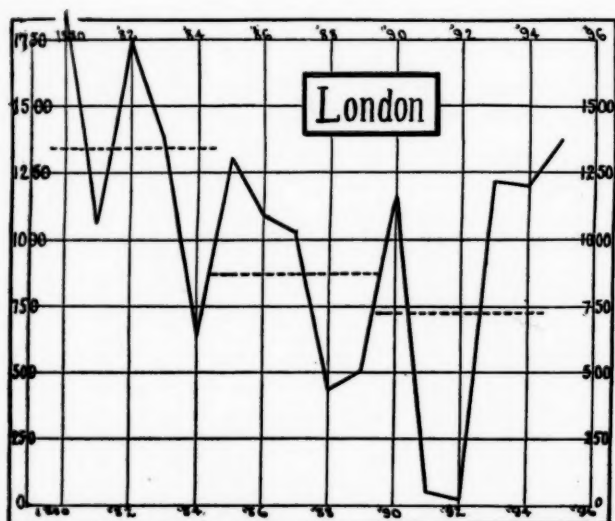
Vertical scale reads in millions of marks.

It will be profitable to inquire whether a similar tendency is shown in the sums borrowed by leading European municipalities. Berlin is, perhaps, the best type of the well managed, progressive foreign town. The diagram illustrating her annual expenditures out of borrowed funds shows movements from year to year rather less sharp than even those of Boston.<sup>2</sup> In nine out of the

<sup>1</sup> Compiled from Hollander's "Financial History of Baltimore," pp. 385, 386. The average variation of the annual bond issues from the averages for five-year periods is 49.2 per cent.

<sup>2</sup> Compiled from the annual "Verwaltungsbericht des Magistrats der Stadt Berlin" from year to year.

fifteen years from 1880 to 1894 inclusive, the capital expenditures vary less than 25 per cent. above or below the average for the five-year period in which they stand, and in fourteen less than 50 per cent. from the average. The average of all the percentages of variation is 22.7. Nevertheless Berlin, like other cities, has had her periods of unusual expenditure. The outlay for the five years from 1890 to 1894 stands very considerably above that before.



Vertical scale reads in hundred-thousand pounds sterling.

The diagram showing the amount of debt created annually by the city of London is based only on the figures for the Metropolitan Board of Works and its successor, the County Council.<sup>2</sup> The sphere of activity

<sup>2</sup> "House of Commons Papers, Local Taxation Returns," Summary, 1887, p. xxv, 1897, p. xl.

of these bodies being much more restricted than that of the ordinary city government, we should expect, on the whole, less regularity in expenditure for permanent improvements. Aside from the minima between 1888 and 1892, however, which are perhaps explainable by the transition from the Board of Works to the County Council, there has been a clearly marked tendency toward uniformity in annual borrowings. The average percentage of variation from the five-year averages between 1880 and 1894 was 47.5 per cent.

Both New York and Boston illustrate admirably how numerous are the items of expenditure for permanent improvements which large cities are called upon to make. The comptroller's report of the former city shows no less than 66 separate classes of bonds issued during 1897.<sup>1</sup> Money was borrowed for nearly 20 public buildings of various sorts, aside from numerous school-houses, for almost as many different park and parkway extensions and improvements, and for a large number of street and boulevard enterprises. In Boston for the same year more than 130 different objects are enumerated for which bonds were issued, the items for construction and improvement of buildings and of streets being specially numerous.<sup>2</sup> Of course in both these cities this large number of items is partly explained by a violation on the part of the municipal authorities of the financial canon which prohibits borrowing for essentially current outlay, but after all a very considerable proportion of these many objects of expenditure come pretty strictly under the head of permanent improvements in the sense in which most financial writers and public officials use the term.

<sup>1</sup> New York Comptroller's Report, 1897, Statement B, II.

<sup>2</sup> Boston Auditor's Report, 1897, pp. 169-172.

It will still be urged, however, that, even though such figures as these presented may point toward a rough regularity in the bond issues of great cities during the past twenty years, yet the capital outlay of these years has been abnormally high; that sooner or later in the future most of our municipalities will find the demands for permanent improvements decreasing, if not absolutely, at least relatively to population and especially to wealth. If this shall prove true, it is obviously just that the taxpayers of the years to come should share in the cost of works now being erected, of whose advantages they are to partake.

It is rash to prophesy, but there seems at least a probability that, with certain exceptions, of course, the expenditures of great cities, both for current administration and for enduring works, will not materially decrease for a long time to come, as compared with either population or taxpaying ability. All the influences which have tended in the past to increase the relative needs of cities seem likely to persist in the future.

The increase in city population, at least in the United States, bids fair to continue with a rapidity almost if not quite equal to that of the past fifty years. Prospective increase of population is not ordinarily, as is sometimes supposed, a justification for borrowing in the case of a city already large. Generally speaking, municipal growth increases municipal needs in more than equal proportion. In the first place, it requires a widening of the scope of governmental action. The greater territorial extent of the city, and still more the greater density of its population, makes the citizen less able to satisfy his own wants, more dependent on others. For this reason forms of enterprise which at one time



belong legitimately to private initiative may, a decade or a quarter-century later, be so indispensable to all classes of city-dwellers that public ownership is the only safeguard against oppression. Whatever be the strength of the arguments for municipal ownership of so-called "public utilities" to-day, it will be twice as great twenty years hence. And whatever be their strength now or then, the actual tendency of our municipalities to take a larger and ever larger share in such enterprises is apparent. We have reason to believe that the now common practice of cities in Great Britain and Germany of owning docks, gas, electric and street railway systems, etc., will be increasingly followed in this country; and if so, the constant development demanded in these facilities will call for frequent new capital investments.

Moreover, added population in itself often calls for more than proportionately greater quantity and higher quality of services along lines already universally recognized as within the domain of governmental activity. For instance, streets must be widened to accommodate the growing traffic, and to increase the supply of light and air made specially necessary by the added height of buildings. The expense of such changes in old established streets is enormous. Again, owing to the danger to health from dense aggregation, sewers, parks, sanitary enterprises of all sorts, constantly demand extension and improvement, simply to maintain the existing standard of health without attempting to raise it.

But more important, perhaps, than mere increase of population in calling for new and improved municipal services, are the constantly rising standards of civilization, the steadily widening knowledge and desires of the people, and the ever increasing spirit of solidarity among

them. Rapid as has been the progress in these directions in the past century, we have no reason to believe that the movements of the coming century will be with slower pace. Prophets of the earlier days have seldom overestimated the rapidity of economic and social advance. Already we hear on every hand suggestions of new and wide-reaching municipal enterprises for the public welfare—for transforming the slums, for increasing the convenience, comfort and health of all classes, for educating them in a score of different ways. Without sharing in any manner the Utopian visions of a Bellamy, may we not conservatively enough look forward to a time when city life shall be made far more healthful, convenient and delightful than it is to-day, and that, in no small degree, through the efforts of public authorities, through the action of the great co-operative household of citizens?

If such shall prove the case, this increased activity will require increased outlay, for enduring public works, as well as for current purposes. Each year, each quinquennial period, each decade, each generation, will enjoy the benefit of the works established by its predecessor, but each will, at the same time, have new investments to make to meet its own needs and to hand down to its successor.

If there is any weight in the considerations so far presented, it is scarcely necessary to urge that sound financial policy requires that our great cities pay out of current revenue a much larger proportion of their expenditure for permanent improvements than most of them have been doing. We need, in fact, to ask indulgence for further emphasizing this point.

Borrowing on such a scale as has been common is unjust to future taxpayers. Sometime the reckoning must

come. It will not be possible always to shove before us a continually increasing burden—and that is practically what we are doing, even though we pay all past debts when they become due, if at the same time new debts of larger amount are constantly being incurred. If the likelihood is that each new generation will have new burdens of its own, relatively fully as heavy as those of its predecessor, it should not be asked to bear, not a small part merely, but the greater portion of the cost of previous undertakings.

It goes without saying, moreover, that unnecessary postponement of financial burdens adds to their weight. Interest goes on ceaselessly. If a public improvement be paid for by thirty-year bonds at the lowest rate of interest, 3 per cent., and if these bonds be gradually amortized from the beginning so that the average duration of the debt is only fifteen years, yet the actual total outlay for the improvement is increased almost one-half through interest. In private life the man who borrows largely, or for long periods, for non-profit making expenditures, is considered a spendthrift. Besides, the burden of interest is an immediate one—that at least cannot be shouldered upon the future. New York City in 1897 paid nearly eight and one-half millions for interest on its bonds, and almost as much more was added to the sinking fund for the ultimate redemption of the debt, these two sums together constituting over one-fourth of the total city expenditures.<sup>1</sup> The money spent for these purposes during the years 1892 to 1897 was not far from equalling the new debt incurred in that period of great borrowing. To be continually paying

<sup>1</sup> Compiled from Comptroller's "Report," 1897, p. 44 and Statement G. The net amount of contributions to the sinking fund from all sources is considered as a current payment. This amount varies considerably from year to year.

interest and redeeming old debt with the one hand and continually incurring new debt with the other is poor economy. Indeed, it is a fiction to speak of borrowing as transferring the burden of expenditure largely to the next generation. The taxpayers of to-day will most of them be paying taxes for ten, for twenty years to come, and their taxes will largely go to cover interest on bonds which might have been saved by taxing themselves a little more heavily at the outset.

It has been intimated already that financial writers urge especially the desirability of borrowing to meet the cost of profit-earning enterprises. It may, indeed, readily happen that, when entering upon some great new *quasi-private* undertaking, the city may make an unusually sudden and large capital outlay, clearly calling for bond issues; but where expenditures for such purposes are distributed more or less evenly, there seems no sufficient reason for making a distinction in principle regarding them.

In the first place, the mere object of insuring that such an investment be made to support itself by the sales of its product or service can be almost if not quite as well accomplished by careful book-keeping and public reports as by the segregation of debt charges and revenues. As a matter of fact, the attempt to keep up numerous separate funds of different kinds in our American cities has usually confused rather than aided the taxpayer, and has often broken down. In the second place, the mere fact that the revenues of an enterprise are capable of covering the debt charges is in itself no argument against cash payment for the investment. Receipts in that case will go to reduce taxation—not in the distant future but in the present. A man who has all the capital of his own which he can profitably invest in a revenue-earning

business would be foolish to borrow. It is surely better to have the investment free of burden. Finally, it is to be remembered that a city is justified in furnishing any service only in case it is of exceedingly general usefulness—*quasi*-public in its character. As the city grows and as solidarity of interests and of sentiments increases, more and more will the service tend to become of universal necessity, will the private interest yield to the public interest, and the price and fee principles of payment to the tax principles; less and less will it be fitting to rely upon charges to consumers as the means for paying interest and redeeming the debt incurred in the enterprise.

For the sake of simplicity we have in the preceding discussion passed over with mere casual mention some important modifications in the statements and principles laid down. These must now be more fully developed.

We noticed, in the first place, that, even where the capital expenditures of a city become quite uniform if groups of several years be taken as the units of comparison, there are often sharp fluctuations within these groups. Though it would be possible, often, by taking thought, to decrease these fluctuations somewhat, engineering and other reasons are bound always to cause them to a considerable degree. Such reasons may easily call for two or three times as large payments in one year as in the next. So far as this is true, we must evidently depart from any policy of immediate and full cash payment. The tax-rate cannot be permitted to vary with such suddenness.

Again, we saw that it has happened, even in those cities where the uniformity of capital expenditure has been generally most marked, that during certain periods of years the outlay for permanent improvements has

been materially higher *per capita* than the average for preceding and following periods. Such unusually large expenditures may have been entirely desirable and necessary. There can be little doubt that some of our own great cities are at the present time having to spend more for public works, relatively to population and taxable valuation, than they are likely to need to do during most future periods. Thus in New York the attempt to remedy the neglect of public improvements on the part of a corrupt administration during a long series of years, together with the impetus of a new conception of the possibilities of municipal life and with the new needs growing out of the consolidation of the city, has led to unprecedented capital outlay during the past five or ten years, an outlay likely to continue large for several years to come. So too, Boston, during the past decade, has been growing into closer relation with its suburbs, has been coming to realize its metropolitan character, and has caught a new spirit of progress—influences which have resulted in the undertaking of extensive improvements, scarcely likely to be equalled in relative importance in the municipal annals of some time to come. Both of these cities have, therefore, been justified in borrowing part, though not the whole, of the money necessary to meet these expenditures.

Such periods of unusually active municipal development, of especially heavy outlay, are likely hereafter to occur from time to time in almost every city. What constitutes a period of truly extraordinary expenditure, and what proportion of its burdens may properly be postponed to the future, are questions which cannot, of course, be determined in advance with absolute certainty. The decision as to a course of action which, so far as can be foreseen, is wise and just, calls evidently

for most careful, conscientious and statesmanlike deliberation.

We must, finally, recognize that the existing charges on debts earlier incurred preclude the immediate full adoption of a policy of paying for permanent improvements primarily out of current revenue. To do so would be, not to equalize the burdens of present and future generations, which is the goal to be sought, but to call for double sacrifice from the taxpayers of to-day. The city would evidently have to begin by meeting part only of its capital expenditure by means of regular income, increasing the proportion gradually as the payments on past indebtedness relatively diminished.

In view of the preceding general argument and of its qualifications, the following may perhaps be tentatively outlined as a feasible scheme of payment for permanent municipal improvements in great cities. It is not presumed to be applicable in any considerable degree to small places.

Supposing that the burden of earlier debts has been reduced to a moderate basis, there might be fixed in advance, for a period of say five years, an annual sum to be raised by taxation for the purpose of establishing, extending and rebuilding works of a permanent character. This sum would be determined by a careful consideration of past, present, and probable future circumstances, expenditures and needs regarding such public works. A fair basis often would be the average outlay for permanent investments during the preceding five or the preceding ten years, with a percentage added to cover increase of population; but regard would have to be given to the question whether the outlay for these years had been apparently normal or otherwise. It would not necessarily, of course, be the purpose to raise



the full amount of anticipated expenditures for permanent improvements, if it were fairly believed that such expenditures would be greater than the average. But it would be necessary to guard against the constant temptation to lighten present taxes, especially for the sake of political capital, at the expense of the future. Public officials are apt to be too ready to overestimate the relative weight of present burdens and the relative capacity of the future for burden-bearing.

All money thus raised by taxation would be set aside exclusively for permanent improvements, and not allowed to be used for ordinary administrative purposes. Whenever there was a surplus of income from this source over expenditure, it would be deposited in bank at interest; whenever there was a deficit, money would be borrowed on short-time bonds, to be renewed when necessary. In this way minor fluctuations in the expenditures from year to year would be adjusted. This double method has already been systematically worked out in some of our great cities, for the purpose of establishing an equilibrium between income and outgo within the year itself, and it is also employed in the national finances of certain countries. New York City, for example, borrows immense sums each year on so-called "revenue bonds," which are mostly repaid within a few months out of taxes, small balances being occasionally carried over to another year. The rates of interest necessary to secure such short-term loans are remarkably low, while, on the other hand, by careful and honest management, a reasonable interest can usually be obtained from banks on money held by the city in advance of expenditure.

Finally, if at the end of the period of years any large amount of these short-time obligations remained out-



standing, representing capital expenditures in excess of the total raised by tax, they would be funded by other bonds, having a term of greater or less length, according to the character of the improvements made during the period and the probabilities as to future capital outlay—the matter again calling for careful and conscientious deliberation. Under present conditions, I may add, it does not appear that much attention should be paid, in fixing the duration of bonds, to the preference of investors for long-time securities. The slightly lower rate of interest on a thirty or fifty-year bond is not worth securing at the cost of paying interest twice as long as is necessary or proper, in view of the nature of the investment.

The chief practical difficulty which might arise in the operation of such a system as here proposed, would be the temptation, growing alike out of the dishonesty of officials and the lack of foresight on their part and that of the people as well, to spend wastefully or prematurely any money which might be accumulated in the fund for permanent improvements. Simply because the money was there, the city might be inclined to undertake comparatively unnecessary works, leaving little or nothing to meet more pressing needs which might arise later. But in a municipality with even a moderately intelligent and honest government, there ought to be far less difficulty from this source than was experienced by our national government during the time when its finances showed a constant surplus. In the city, surpluses would not occur repeatedly, year after year, with prospect of indefinite continuance in the future. It would be understood, by people and officials, that a distinct destination was already in view for moneys ac-

accumulated. In fact, were our cities governed by fairly competent and fairly permanent rulers, it would be possible for them to estimate quite definitely in advance the needs of each period of years as a whole, and to know approximately the sums which would be required for the leading improvements contemplated. Such a condition as this has already been reached in Berlin and other European cities where municipal administration has been reduced to a profession.

Professor HOLLANDER : As a statement of fiscal theory there would be little dissent. Yet when we come to make practical application of the theory, a necessary exception becomes so formidable as to question the utility of the theory. In other words, what is to be said in the case of a city groaning under an oppressive tax rate, with an assessed valuation of property to its full value, and yet in urgent need of improvements, such as school buildings, fire departments, street paving, which, from a strictly theoretical point of view, are chargeable to current income. That is the typical condition of the American city, and it seems so conspicuous that it is idle to formulate a fiscal theory in opposition to it, or to say that the cities shall halt in improvements or in the amelioration of the conditions of municipal life, on the score that they should not borrow.

There are at least three circumstances which render increase of municipal indebtedness for necessary municipal improvements less ominous than might be supposed. In the first place we must consider the likelihood of continuous decline in the interest rate of municipal securities. In the second place we can assume in the ordinary city a saner policy of amortization, etc. Finally, a consideration to be borne in mind, most important of all, is

the fact that municipal tax-paying capacity may increase more than proportionally with municipal expenditures.

We should bear in mind the danger of borrowing for current improvements, but we must not formulate an absolute rule to the contrary. The policy should be one of discretion. Borrowing is to be permitted when the need is urgent; it is not to be condemned merely on the ground that it violates the principle of "pay as you go".

Professor SELIGMAN: After listening to the last speaker's remarks, it occurs to me that it would be unfortunate if we were compelled to come to the conclusion that the theory advanced by the essayist was in itself admirable but could not be worked out in practice. That, of course, is a statement to which teachers of economics have grown accustomed. But if a theory is true, it is safe to assume that it can be worked out.

Is there not some way in which we can find a common ground? The one speaker said, we must pay for new expenditures through more taxation. The other speaker said, the theory is beautiful, but you cannot do it because the burden of taxation is already too great. If the theory is true that we ought to pay for those expenses out of current revenues, and if our revenues are insufficient, the thing to do is to reform our methods of revenue. The whole question of municipal income itself is bound up with this question. The practical aim must be to reform our present system of taxation. Then we shall have a revenue adequate to the realization of the theory.

Again, it may be asked: how far are we to accept the demand of Professor Durand on the one hand, and on the other the contention of the last speaker that we should employ this method with discretion? If we accept the principle that there are continually recurring

improvements and that there will be from year to year new schemes of permanent improvement, could not a correct line of distinction be drawn between the inauguration of the new idea and its continuance? The inception expenses could be met by borrowing money; but then, after the public had become familiarized with the idea of and the need for each new improvement, could not the recurring expenses incident to such improvements be met by taxation? In brief, start the improvements by borrowing money, but provide for the continuance of the expenditure by taxation.

## THE FINANCIERING OF TRUSTS.

BY HON. CHARLES S. FAIRCHILD.

The subject that I have been asked to present—"The Financiering of Trusts"—is one as to which there is, probably, much confusion in the minds of many people. But it is so simple and the process is so obviously the one that must be followed that I am doubtful if I can worthily take any of your time.

The motives and the processes which produce a cheese factory or creamery are much the same as those which produce other business combinations or so called trusts. A, B, C, D, and E own dairy farms; [they become satisfied in some way that they can manufacture and sell butter and cheese at greater advantage if they combine both for manufacture and sale than they can if they continue in the old way on each individual farm.

They may reach this conclusion through the talk of some man who wishes the job of managing the manufactory or by talk among themselves. In the one case there is a promoter; in the other not.

But coming to my immediate subject, owing to the fact that usually the things which we have in mind now are made by the union, under a new corporation, of private concerns and of corporations more or less widely separated geographically, and because there are laws about corporations that must be complied with or evaded, some things are done in their financiering which make apparent differences between them and the familiar cases of which I have spoken. But the difference is more apparent than real, as will appear when both are well understood.

Several manufacturers whose factories are in as many different places come to believe that it is for their advantage to unite their various businesses: they consult as to the value of their respective real estate, tools, machinery and business connections; then they organize a corporation under some state where the laws are suitable for their purpose, providing for a maximum of securities of various kinds, mortgage bonds, preferred and common stock—all or any of these as they may determine—and then sell their properties to the new corporation, taking in payment the securities of the new corporation in such proportions as the value of each property is to the value of all of them.

Or in another case the promoter acts. He goes to each of the manufacturers, obtains an option upon their properties, agreeing to pay for the same, it may be in cash or in the securities of the new corporation, or partly in cash and partly in securities. He organizes his company and agrees to sell the properties upon which he has his options to the new corporation for all the securities that it has issued. He then distributes part of these securities to those who have agreed to take them in payment for their properties, and sells to outsiders—new men—generally called “the public,” another part of the new securities for cash, which is used to pay the money to those manufacturers who have agreed to take money in whole or in part, and also an agreed part of the cash thus realized is kept in the treasury of the new corporation as a working capital to avoid the necessity of selling the paper of the new company, as probably all of the concerns thus combined had been obliged to do before the combination was made. This provision of cash for working capital is also generally made in whatever way the combination

be brought about ; it is certainly always done if good judgment and prudence have been respected in the formation of the combination. In many cases, I think it may be said, that one of the strong inducements which have caused manufacturers to enter into these combinations has been that they might be freed from the worry and peril of constantly raising money on their business paper to carry on a business which was not equipped with sufficient cash capital.

After enough of the securities have been distributed and sold to fulfill the engagements of the promoter, he tries to have a good supply left in his hands to reimburse him for his expenses and pay him for his time and labor. In some instances this pay is said to have been very large. Naturally as to this I have no positive knowledge in any instance, only rumor and gossip. This method of payment is the same as that of the reorganizers of railroad and other concerns ; it is in the nature of a lawyer's contingent fee, dependent upon the success of the undertaking or suit, and is naturally larger than it would be if made in cash.

During the processes which I have described, underwriting syndicates have probably been employed to make sure that a sufficient amount of securities shall be sold to secure the cash needed, and there have been one or more bankers who may have loaned money needed, pending the final launching of the new company and may also have been employed to bring out its securities, *i. e.*, offer them for subscription by the public. Syndicates and bankers must be paid their commissions out of the surplus securities.

Perhaps a concrete illustration may help toward a clearer understanding of just how this part of the financing of these combinations is managed. Let us

assume that the promoter has secured options upon the plants, assets and good will of ten separate manufacturing concerns, for which he is to pay, under the terms of his options, \$3,000,000 in cash and \$6,000,000 in preferred stock and \$4,000,000 in common stock of a new company of \$20,000,000 capital (half preferred stock) to be formed to acquire the entire plants, stock and other assets, good will, etc., of the ten concerns specified, and to have when formed at least \$1,000,000 of working capital. As soon as these options are in this definite shape the promoter goes to some financial house or firm of private bankers for assistance in raising the \$4,000,000 of cash which the plan requires. He presents the facts as to his options and his program and proposes that if they will arrange a syndicate to underwrite or guarantee the purchase of \$4,000,000 of preferred stock and \$4,000,000 common stock for \$4,000,000 in cash he will give them a commission of 5,000<sup>2</sup> shares of the common stock of the company. The bankers give the entire project careful investigation, usually employing experts and accountants to report upon the facts as to the business and profits of the constituent companies. If the result is satisfactory, the promoter gets a favorable answer and the bankers become the managers of an underwriting syndicate. In carrying out this part of the program they proceed to lay the matter before the individuals or companies to whom they desire to offer an interest in the marketing of the stock. This is naturally done by submitting copies of a syndicate agreement reciting that the subscribers agree to purchase at par the number of shares of preferred stock set opposite their respective names, receiving as a bonus an equal amount of common stock—but the whole conditioned upon there being an aggregate subscription



equal to the \$4,000,000 to be raised. If this amount is oversubscribed some subscriptions are either thrown out or cut down. If it is not subscribed the project has to be abandoned or modified. In some cases the desired end is sought by a public announcement of the terms on which subscriptions will be received.

If the entire \$4,000,000 is subscribed the next step is to require the payment of the subscriptions allotted. This gives the syndicate managers the \$4,000,000 cash which the plan requires. The new company is then incorporated with an authorized capital of \$10,000,000 preferred and \$10,000,000 common stock, of which perhaps \$5,000 of the common stock is paid up at once; and on this the company begins business with a regular board of directors. The stockholders owning this first \$5,000 of stock (50 shares) then vote to authorize the increase of the capital to the amount fixed in the certificate of incorporation and approve the issue of all the additional stock in a block to John Doe, the promoter, in exchange for the various plants, assets, etc., and the \$1,000,000 cash which the new company was to acquire. Then by simultaneous transactions John Doe gets the \$10,000,000 preferred stock and \$9,995,000 common stock; of this \$6,000,000 of the preferred and \$4,000,000 of the common stock is passed on to the owners of the original companies; \$4,000,000 of each is passed to the syndicate, whereupon it turns over to John Doe the \$4,000,000 of cash, which he in turn uses to pay the cash required by the options and that which is to go into the treasury of the new company; at the same time the titles to the various properties are passed to the new company. John Doe then finds himself—after turning over to the banking house which formed the syndicate the 5,000 shares of common stock agreed

upon as commission for their services—the possessor of 14,950 shares of common stock, of the par value of \$1,495,000.

In planning the details of the various consolidations there has been great diversity. In some cases there has been only a single kind of stock—common stock. Such, for example, are the Standard Oil Co. and the Amalgamated Copper Co.—both among the largest of the so-called trusts. In most cases, however, there have been two kinds of stock, preferred and common—frequently evenly divided in amount between the two. When put out to the public through a syndicate, the preferred stock has usually been offered at par with a bonus of an equal amount, or 60 per cent., 75 per cent., or 80 per cent., in common stock. In the terms on which the preferred stock is issued, there is equal diversity. So far as one can generalize, it might perhaps be said that the most general plan has been to issue a 6 per cent. or 7 per cent. preferred stock, preferred not only as to dividend named, but as to assets as well. In some cases the position of the preferred stock has been made exceptionally strong. Take, for example, the preferred stock of the Royal Baking Powder Co. which, under the plan there followed, is allowed no voting power or representation in the management so long as the quarterly dividends of 6 per cent. per annum are regularly and promptly paid. But if there should be a default in the payment of that dividend, the entire voting power and management pass from the common to the preferred stockholders. This provision thus leaves the preferred stockholders in much the same position as if their interest was represented by bonds—but without the difficulty, expense and delay of foreclosure in case of default in payment of interest.

In the most of the recent consolidations there has been included no bonded debt. This I believe to be wise, inasmuch as it leaves the company with no fixed charges and thus in a much stronger position in a period of depression than it would occupy if it were obliged to meet the interest on a large amount of bonds. Because of this infrequent use of bonds in the consolidations which have been made in the industrial field, the first long continued period of depression will not produce the abundant crop of reorganizations that has in the past attended depression in the railroad field.

In the issue of common and preferred stocks in the capitalization of the corporations we are considering, an attempt has frequently been made to limit the preferred stock to the value of the actual tangible assets turned over to the new company, real estate, plants, tools, machinery, stocks of goods, working capital, etc., leaving the common stock to cover the value of the "goodwill," expected earnings, expenses of promotion, etc. This brings up a question which is of much importance to those who invest in the new company's stock, viz. "In what manner has the value of this 'goodwill' been estimated in fixing a price upon the various constituent companies?" Nearly every proposition for a consolidation has been accompanied by the results of a careful investigation into the net earnings of the constituent companies for a number of years past. These earnings augmented, perhaps, by an estimate of the economies to be effected by the consolidation of the various enterprises form the basis of the estimated net earnings of the new company. Care is then taken that the capital stock is not made so large that the estimated earnings will not afford the dividend upon the preferred stock and a substantial dividend upon the common stock.

In some cases the value of the goodwill acquired has been very carefully estimated. For example, the promoters of one company made a special point of the conservative methods employed in arriving at the value of the goodwill of the companies which were consolidated. According to their statement, the new company was virtually buying the real estate, plants, stock, etc., on the basis of appraised cash value. In addition an allowance was made for goodwill, calculated upon this basis; from the net profits of each company deduct 7 per cent. upon the capital actually employed,  $1\frac{1}{2}$  per cent. upon sales, which were about three times the capital, 2 per cent. for depreciation on brick buildings, 4 per cent. on frame buildings, and 8 per cent. on machinery. If the average net earnings were in excess of all this, and in this case it appeared from the promotor's statement that they usually were, the excess was capitalized as "goodwill" on the basis of 20 per cent. per annum, *i. e.*, the value of the goodwill was estimated to be five times the amount of such earnings in excess of 7 per cent. on capital and allowance for depreciation.

In some cases, however, there has not even been a pretext that the capitalization was based upon a careful investigation of the actual earnings of the constituent companies. I have in mind a certain consolidation which it was desired to effect. The promoters and the brokers who attempted to bring it out, however, in their prospectuses carefully avoided the subject of actual net earnings of the constituent companies, but based the estimate of earnings of the new company upon nothing more reliable than the quantity of product annually turned out and an estimate that the selling price had been and would be about twice the cost of producing the article. It is hardly to be

wondered at that the project was not sufficiently attractive to enlist the necessary investment support.

Many of these large industrial corporations have been formed to purchase, not the actual plants and assets, but the whole or a large part of the stock of the constituent companies. This stock even when the whole is owned by the new corporation, is then kept alive and constitutes the formal assets of the new company.

I might describe all the steps taken in the formation of the corporation were there time ; but it is only what is done in the formation of a corporation for any purpose, and, while interesting, does not belong especially to this subject.

I have a table of the kinds and amounts of the securities used by some of the more important of the 200 or 300 corporations of this nature that have been formed within the past few years ; but there is not time, nor would it be worth while, to read them now. They will be attached hereto, however, as an appendix.

All this that I have described which is in excess of what is done in the formation of the cheese manufacturing combination is rendered necessary either by the state laws governing corporations or by the need of raising cash capital, or to enable the constituent members of the corporation to conveniently collect their profits from the combined business in proper proportions and to have a representation of their interests therein which is divided in such form as to enable portions of it to be sold or transmitted to heirs, etc., etc.

In substance, however, there is no difference. The milk delivered morning and evening during the year is each farmer's contribution to the combination ; his interest in the whole varies according to both quality and quantity of milk, just as in the other combinations

the interests vary according to the quality and quantity of property and goodwill or business contributed by each. Just as a creamery will be successful as it is well or badly managed, or as is the market for its products, so in like proportion will any other business combination succeed, and for like causes.

The larger combinations, however, through their securities affect financial matters generally to a greater or less extent as they come into the stock market and into the field of investment and speculation. Naturally the uncertainty as to amount and regularity of profits attendant upon one of these enterprises while it is new will make its securities a fruitful object of speculation. Time and experience will sift them and cause each one to take its proper place in the share list. All other business securities, be they railroad, telegraph, bank stocks or what not, have and must go through a like sifting and settling process and their values are and will be constantly changing. Some of the other industrials, as they are called, have come to be as regular in their dividends and as stable in price as the best railroad stocks, and some of them are much more removed from the speculative field.

As to the effect upon the money market of these new securities, it is hard to say. It must be remembered that the great bulk of them are in the hands of the owners of the original constituent properties. It must also be remembered that the cash capital provided upon the formation of the new corporation has taken from the money market a large amount of industrial commercial paper; in its place is the borrowing upon the securities of the new corporations. As to what proportion the one bears to the other, there are no data to be had. At a venture, however, I would say that there is

little, if any, more money loaned now upon the shares of new industrial combinations than there would be now loaned upon the business paper of the constituent concerns had the combinations not been formed. Of course I say this bearing in mind the demand for money accommodation that would have been caused by the present business and manufacturing activity. Probably the places where the loans are made have been changed. More comes upon New York and the business centres, and less upon the banks in the places where the separate factories are. This may partially account for the greater money pressure in New York with comparative ease in the interior. All of this will, however, soon adjust itself by the aid of the rapid communication given by railroads and telegraphs and the business world will move on with certainly no more rapid changes up and down in the future than in the past. In the meantime prudence and judgment must be used that the unworthy may not have undue opportunities and also that the worthy may not be unduly repressed. A great help and safeguard would be some well devised plan of publicity as to corporate earnings and expenses. Such plan would serve the financial and general business public and at the same time would be a great assistance to the solid and well conducted business combination.



## APPENDIX.

## CAPITALIZATION OF SOME OF THE MORE IMPORTANT INDUSTRIAL "TRUSTS."

	Common Stock.	PREFERRED STOCK.		BONDS.	
		Amount.	Rate.	Character.	Amount.
<i>Common Stock only:</i>					
Amalgamated Copper Co.	\$75,000,000	-----	-----	-----	-----
Diamond Match Co.	15,000,000	-----	-----	-----	-----
Standard Oil Company of N. J.	100,000,000	-----	-----	-----	-----
<i>Preferred and Common Stock:</i>					
American Agricultural Chemical Co.	16,500,000	\$16,500,000	6	C. A.	-----
American Beet Sugar Co.	15,000,000	4,000,000	6	NC.	-----
American Brick Co.	7,500,000	7,500,000	7	NC.	-----
American Bridge Co.	34,500,000	23,000,000	7	C.A.	-----
American Car and Foundry Co.	29,090,000	29,090,000	7	NC. A.	-----
American Chiclet Co. (chewing gum)	6,000,000	3,000,000	6	C.	-----
American Ice Co.	22,939,100	12,440,400	6	C.	-----
American Linseed Oil Co.	15,475,000	15,475,000	7	NC.	-----
American Mailing Co.	14,500,000	14,440,000	7	C.	-----
American Radiator Co.	5,000,000	3,000,000	7	C.	-----
American Smelting and Refining Co.	27,400,000	27,400,000	7	C.	-----
American Steel Hoop Co.	19,000,000	14,000,000	7	C. A.	-----
American Steel and Wire Co.	50,000,000	40,000,000	7	C.	-----
American Sugar Refining Co.	36,968,000	36,968,000	7	C.	-----
American Tin Plate Co.	28,000,000	18,000,000	7	C.	-----
American Tobacco Co.	54,500,000	14,000,000	8	NC. A.	-----
American Window Glass Co.	13,000,000	4,000,000	7	C.	-----
American Woolen Co.	29,501,100	20,000,000	7	C.	-----



	Common Stock.	PREFERRED STOCK.			BONDS.	Rate.
		Amount.	Rate.	Character.		
Continental Tobacco Co. ....	\$48,846,100	\$18,844,600	7	N.C. A.	-----	-----
Distilling Company of America ..	46,250,000	31,250,000	7	C.	-----	-----
General Chemical Company .....	12,500,000	12,500,000	6	C.	-----	-----
Glucose Sugar Refining Co. ....	24,027,300	12,619,300	7	C.	-----	-----
Havana Commercial Co. ....	10,000,000	6,000,000	7	C.	-----	-----
International Car Wheel Co. ....	3,225,000	1,775,000	7	C.A.	-----	-----
International Power Co. ....	7,400,000	600,000	7	C.	-----	-----
International Steam Pump Co. ....	15,000,000	8,850,000	3	C.	-----	-----
National Biscuit Co. ....	29,200,000	23,200,000	6	C.	-----	-----
National Lead Co. ....	14,905,400	14,904,000	7	C.	-----	-----
National Salt Co. ....	3,500,000	2,400,000	7	C.	-----	-----
National Steel Co. ....	32,000,000	27,000,000	7	N.C.	-----	-----
National Tube Co. ....	40,000,000	40,000,000	7	C.A.	-----	-----
National Wall Paper Co. ....	27,931,500	40,000,000	7	C.	-----	-----
Otis Elevator Co. ....	6,000,000	7,500,000	8	Debtenture Stock.	-----	-----
Republic Iron and Steel Co. ....	27,352,000	4,000,000	6	N.C.	-----	-----
Royal Baking Powder Co. ....	10,000,000	20,852,000	7	C.A.	-----	-----
Rubber Goods Manufacturing Co. ....	12,114,900	10,000,000	6	C.A.	-----	-----
Union Bag and Paper Co. ....	16,000,000	6,335,900	7	C.	-----	-----
Union Typewriter Co. ....	10,000,000	11,000,000	7	C.A.	-----	-----
United Shoe Machinery Co. ....	8,660,725	(1st) 4,000,000	7	C.	-----	-----
United States Rubber Co. ....	23,666,000	(2d) 4,015,000	8	C.	-----	-----
		8,657,700	6	C.	-----	-----
		23,525,500	8	N.C. A.	-----	-----
<i>Stock and Bonds:</i>						
American Bicycle Co. ....	20,000,000	10,000,000	7	C.	10,000,000	5
American Cotton Oil Co. ....	20,237,000	10,198,600	6	N.C.	3,068,000	8
American Hide and Leather Co. ....	11,500,000	13,000,000	7	C.A.	8,445,000	6
American Writing Paper Co. ....	\$ 9,500,000	\$12,500,000	7	C.A.	17,000,000	5
American Thread Co. ....	6,000,000	6,000,000	5	-----	6,000,000	4

	Common Stock.	PREFERRED STOCK.		Character.	BONDS.	
		Amount.	Rate.		Amount	Rate.
Asphalt Company of America.....	30,000,000	-----	---	---	30,000,000	5
Central Foundry Co. ....	7,000,000	7,000,000	7	C.	4,000,000	6
Federal Steel Co. ....	46,484,300	53,261,000	6	NC, A.	28,334,000	5
International Paper Co. ....	17,442,800	22,406,700	6	C.	8,782,000	6
International Silver Co. ....	9,946,000	5,111,500	7	C.	3,592,000	6
Mt. Vernon—Woodbury Cotton Duck Co. ....	9,500,000	-----	---	---	7,000,000	6
National Starch Manufacturing Co. ....	4,450,700	(1st) 2,219,400	8	CA.	6,000,000 Inc.	5
New England Cotton Varn Co. ....	5,000,000	(2d) 1,846,800	12	CA.	3,042,000	6
Standard Rope and Twine Co. ....	12,000,000	5,000,000	7	CA.	5,700,000	5
United States Envelope Co. ....	750,000	3,750,000	7	C.	2,878,000	6
United States Flour Milling Co. ....	3,500,000	5,000,000	6	C.	7,500,000 Inc.	5
United States Leather Co. ....	62,854,600	62,254,600	8	C.	2,000,000	6
					7,500,000	6
					5,280,000	6

C = Cumulative.

NC = Non-cumulative.

A = Preferred as to assets as well as dividends.

Inc = Income bonds.

## INFLUENCE OF THE TRUST IN THE DEVELOPMENT OF UNDERTAKING GENIUS.

BY PROFESSOR SIDNEY SHERWOOD.

In a previous article<sup>1</sup> I attempted to show how organization on a larger scale and of a more complex character was becoming more and more the necessary condition of successful enterprise. The effective anticipation of wants in a more remote future, which is a characteristic of present day civilization, calls for such an arrangement of the productive forces that the process of production shall go steadily forward turning out each year the desired stream of specific goods. But this future demand, while more clearly foreseen than formerly, is yet subject to change and hence the producer's plans must have a considerable amount of elasticity. A large premium is thus placed upon foresight in the anticipation of demand and in preparation to meet that demand.

Again, the area of demand and supply has been widely extended. The market has grown world-wide. This is due in part to cheap and rapid transportation, in part to better knowledge by different nations of each other, in part to the extension of foreign trade, in part to that modern tendency to empire-building which has brought wider areas under a community of law and administration. These facts have placed a high premium on broad and deep intelligence in the entrepreneur. He must know the larger market—what its demands are and what are its sources of supply. He must

<sup>1</sup> "The Function of the Undertaker," *Yale Review*, November, 1897.

possess also the ability to take broad views of the plans necessary to bring together this demand and supply. He must be a constructive statesman in industry, capable of forming large and far-reaching policies.

In the third place, the further development of the "division of labor" has increased greatly the technical difficulty of undertaking. The undertaker must be a great engineer in economic matters, understanding how to utilize to the best advantage the highly developed skill of the laborer, the complex adjustment of the machinery and how to combine the two.

Finally, the vast accumulation of modern capital, with the necessity of using large capital in these productive processes, make it essential for the modern entrepreneur to be a great financier. He must know how to get the requisite capital under his control upon advantageous terms, how to manage it economically and successfully, how to meet the payments of interest, how to avoid carrying unnecessary capital, how to preserve the confidence of the investor.

Successful industry thus requires as never before genius in organization. Right organization is the factor in production which is of overshadowing importance. Labor and capital alike have come into a relation of actual dependence on undertaking ability. Mill's famous dictum that "industry is limited by capital" has relatively lost its significance and should be replaced by another, "industry is limited by the organizing ability of the undertaker".

In spite of the higher standard of living to-day, there is practically no limit to the creation of capital. The limit to industry involved in scarcity of labor is likewise relatively remote because modern machinery and modern specialization have rendered labor many-

fold more efficient. It is in the scarcity of competent industrial leadership that is to be found the effective limit to the growth of industry. The *costly* wastes of our modern system are the wastes of misdirected production. The frequency and stubborn vitality of our latter day industrial depressions can be blamed only upon the lack of broad intelligence and sound judgment in the modern undertaker. The *little* undertaker, in possession of large capital and vast industrial opportunity, is the curse of the present system. He plunges blindly into wrong lines of production, or he pushes his operations beyond the limits which real foresight would have enabled him to see. In his ruin he involves not only his own capitalists and laborers, but other productive organizations as well, and he shocks the confidence of investors generally, so that recovery from depression is excessively slow.

The real function of the trust is to get rid of the weak entrepreneur. It is the natural and spontaneous effort of a progressive industrial organization to get undertaking genius at its head which has produced the trust. The formation of trusts is a process of natural selection of the very highest order.

Where competition is still active, the success of an industry depends on its control by an undertaker great in the qualities I have named; in mercantile foresight, in statesmanlike ability to form the broad policies required by the actual conditions of the world-market, in the technical skill necessary for the nice adjustment of highly specialized machinery and labor, in the financiering of vast capital. A mistake by him in the performance of any one of these four functions may mean, if not immediate disaster, at least inferiority to his rival. Continued success here is in the hands of the greatest

leader. But this strenuous competition, this war to the death, while it pushes to the front the leader most capable, at the same time tends to consolidation. The fierceness of the competition, enhancing the wastes of production, compels the competitors to some form of combination and in this combination the control naturally passes to the strongest and most capable of the leaders.

This is the selective process which was characteristic of the change from the individual to the corporate form of industrial organization. The gains which were possible under production on a large scale could be realized only so far as competent leadership of the large operations was developed and in this school of experience the leaders were trained for the still higher work required. It is in the rivalry between combinations that the supreme effect of this process is seen. Having, as the head of a corporation, learned, as it were, to command a brigade, the great entrepreneur develops the fitness to command a division or an army corps.

The strength of the trust is that it gives the opportunity for the exercise of these highest qualities of industrial leadership. The process of forming the trust tends to put the ablest of the great undertakers at its head. For if not, then the really more capable man is not apt to remain quiescent, but breaks away to become a formidable rival again, a rivalry which at last generally results in the supremacy of the stronger. In other words the persistence of the trust is dependent upon its securing and retaining the highest leadership. Monopoly of a machine will not long secure the trust, for a new machine is likely to be invented; monopoly of franchise will not do it, for such a monopoly may be broken. The monopoly upon which the permanency of

trusts must chiefly rest is the monopoly of undertaking ability, a monopoly in its nature temporary and the result of a competitive process.

The test of the leader's ability will be found, in the last analysis, in benefits rendered to the community, *i. e.*, in the securing of the greatest economics in production. Benefits to the community are not synonymous necessarily, as Adam Smith would have us believe, with low prices to consumers. The great body of laborers who want high wages protest against that doctrine, as do the investors of capital. Consumers of any product must be willing to let live as well as to live. Sufficient inducement must be allowed to prudent people to make it worth their while to create new capital, laborers must be induced to acquire skill and sterling character. In other words the successful management of legitimate industry means adequate wages and dividends, no less than lowered prices to consumers. It is the ability to maintain the proper balance between these three forces which will decide the ultimate fate of the trust as a form of industrial organization. The failure to do this inevitably lures new competition. In other words the monopoly is temporary.

[<sup>1</sup> A rapid historical survey will show the part which temporary monopoly has played in stimulating competition to progressive effort.

With a people naturally inclined to individual initiative the necessary condition of improvements in production is the prospect of large gain to the inventors of the improvements. With early agriculture, where natural opportunities were large and small capital was required, competition served to bring out the invention of better processes only as such competition was stimu-

<sup>1</sup> The portion bracketed, pp. 167-173, was not read at the meeting.

lated by the monopoly of private property in the land. This monopoly was a legal one, created by the community to tempt progressive competition. When the gain from this monopoly tended through social growth to become permanent and an obstacle to further progress, a new motive to progress was found in commerce. The active competitive process there soon brought gains overshadowing the gains from land ownership, now grown passive, and Europe changed from a feudal to a commercial economy. But this new competition was made effective only through the monopoly of the merchant guilds and monopolistic trading or colonial concessions. The rising manufactures were likewise built upon the monopolistic aid of the craft-guilds.

The "Industrial Revolution" marks the next radical change and the chief condition of progress became the invention of better machines. The highest competitive activity was secured by patents. The principle of the patent is that a temporary monopoly tempts competition in invention by securing extraordinary gains to the inventor. But these gains are only a small fraction of the gains secured by the community.

The factory, brought about by the new machinery, was due partly to the monopolistic element of the patent law and partly to a certain tendency to monopoly in the necessity for large capital under single management—a result reached largely by the extension of the corporate form of organization. The old guild system was swept away, having become obstructive to progress, and was replaced by the factory system which broadened and intensified competition, although itself resting on certain elements of monopoly. Superinduced upon this change, before the new movement had worked itself fully out, came the revolution in transportation due to



the steam-engine. In stimulating this progress, monopoly again played its rôle. The patent, the special franchise more or less exclusive, the government subsidy were all made use of to tempt competitors into the field.

These processes—factory production and commerce organized upon the new system of transportation—have been working themselves out during our century. Everywhere competition has been made broader and deeper and everywhere this has been accomplished by the luring of enterprise through temporarily monopolistic gains.

Competition can be a benefit to society only when the competitor is so far secure in his possession of the gains resulting from his efforts that he is stimulated to the struggle. So much of egoism is in us still. Where individual control of land, of a trade route, of market rights in a town, of a right of way for a railroad, of ownership in a machine, or of the right to concentrate sufficient capital for efficient production is necessary in order to bring out the full productive energy of individuals, society does well to secure to individuals that measure of such rights which will bring out this energy. Competition which allows the trespasser to oust the land owner, the burglar to rob the merchant, the commercial pirate to infringe on patent rights, or the fraudulent promoter to buy legislative concessions to wreck a well established railroad is destructive competition, is in fact anarchy and obstructive of progress. Monopoly, up to the point where it tends to prevent improvement, is a stimulus to true competition. It tends to destroy wasteful competition and to promote well-planned and responsible competition. During the last half century it has become increasingly true that

organization on large lines is the essential of efficient production. This means concentration of large capitals and the highest ability in the management of productive concerns. It is not universally true but it is undeniably true in the majority of enterprises. Following this tendency, more and more the disposable capital of the community and of the world has become concentrated. The movement in banking organization has been in the direction of concentration—either legal consolidation or concentration of actual business operations. If law does not permit of formal legal consolidation, business consolidates itself, as the Clearing House system of this country illustrates. For the right conduct of enterprise, under these conditions, a selective process is needed which will put in control of productive opportunity the men of genius. The trust furnishes such a selective process. The trust is successful so far as it succeeds in getting such men in control. This is not antagonistic to competition, it is a competitive process of the most notable sort. It preserves and stimulates the most active competition at the point in the productive organization where progress can result. It is the most powerful stimulus to call out the best energies of the able industrial leaders under conditions where industrial leadership is the most important factor in production. It is the climax of a long historical process which has pushed the individualistic peoples to the front in the world's industrial supremacy. The least that we should do in aid of this development is to allow free opportunity for combination—so long as the methods of combination are fair, clean and honorable. So far as the monopoly of machinery is concerned, our patent laws secure temporary monopoly to the combination owning the particular machine and at the same

time tempt the competition of better machines. As to the monopoly involved in the necessity for the possession of vast capital by productive combinations, the problem is to safeguard the investor by securing in our banking and investment agencies able management and honest dealing. If this were done, ample competitive capital would be forthcoming as rapidly as needed. If this were done, freedom of combination would be the best safeguard to the investor, for it would aid the ablest industrial leaders to secure control of all the capital they needed to extend their business to the most advantageous limit.

There is another element of monopoly—that inherent in the growing relative limitation of industrial opportunity as society becomes more compact. As population within a given area increases, the line of economic progress is toward relatively fewer distributing agencies, relatively fewer manufacturing concerns, relatively fewer transportation systems. There is here an element of permanent monopoly which requires control by the government in the interest of the community. This control is to be effected either by some system for government supervision, by government regulation of price or by the taxing of a part of the profits into the public treasury.

History has shown over and over again the social gain resulting from temporary monopoly in stimulating competitive improvement by appealing to the speculative instinct of able individuals. The temporary monopoly involved in the trust is the newest instance and it calls out the intensest competition among able entrepreneurs for the mastery of business, a mastery resting upon superior organization. There is, then, no need to restrict the temporary monopolies involved in the trust.

As to the tendency to permanent monopoly discoverable in some lines of business, our experience furnishes us with two types of government regulation which have proved fairly successful and either of which may be applied, with some changes, to combinations—the bureau of the Comptroller of the Currency and the Interstate Commerce Commission. Both in banking and in railroading the growth of business has been steadily toward concentration. The banking laws have prevented consolidation of banks doing business over wide areas. The banks, through the Clearing House and their system of correspondents have actually concentrated the banking business. This federative system of banking consolidation is in accord with our political ideals and is working itself out satisfactorily. The government inspects the business and requires publicity. In spite of all the criticisms urged against the conduct of the Comptroller's office, it must be conceded that on the whole his work has been well done and that the advantages of free and honest competition in banking have been secured to a reasonable degree, without preventing necessary consolidation. A possible method of dealing with the trusts might be modelled upon the National banking system. Combinations local in character could safely be left to local law and regulation. Combinations which in their operations affected the business of several states or of the whole country might be brought under a general federal law, upon the plan of the National Bank Act. Within the general limits of the law there should be freedom in the formation of local competing corporations and freedom in the formation of federative agreements between these concerns, and even in actual consolidation. A Department of Commerce and Manufactures at Washington, needed also for other

reasons, might be created, charged with the duty of regulating the incorporation of these concerns, of inspecting their operations, of requiring reports and publishing the facts. It is believed that such action would meet the requirements of the case with reasonable success. Ultimately it might be advisable to lay special taxes upon the profits if the power of the combinations became oppressive.

The failures of the Interstate Commerce Law have been due to two chief causes. The law did not recognize the fact that consolidation is an inevitable tendency in railroad transportation and has been attempting the impossible in trying to suppress it. Secondly, the Interstate Commerce Commission is a semi-judicial body and has aroused the jealousy of the United States Supreme Court, which has gradually stripped it of the powers which it was intended to exercise. Even so, however, it has accomplished much, largely through the publicity which it has required of the railroads, to secure uniformity, fairness, and honesty in railroad business dealings. If the law, instead of prohibiting pooling, had charged the Commission with the duty of regulating pooling, much more might have been done to secure to the public the benefits of the monopoly inherent in the business. An extension of the scope of the Commission to include supervision of mercantile and industrial concerns doing an interstate business, would, if wisely planned and patiently carried out, furnish a workable solution of the trust problem.]

The fundamental superiority of the trust is that it widens the opportunity to effect the economies essential to progress and tends to develop the ability to do this on the part of the managers of enterprises. Much of the hostility to combination is due to a mistaken view of

the true economic function of the trust. The managers of the trusts, that inner ring of control, who receive the unreasoning condemnation of the mass of the people, are in reality inventors of superior processes of production, and as such deserve special recognition no less than the patentees of new mechanical inventions. If they cannot secure reasonable returns for the benefits they confer upon the rest of the community they will not be stimulated to work out productive economies. A wise policy would not force them to illegitimate and dishonorable methods of securing their just rewards.

This suggests the most sinister side to this development, the prevalence of oppressive and even fraudulent practices by the trusts and their corruptive influence in our political life. There is good reason, however, based upon historical evidence, for the belief that these evils are not inherent in the nature of the trust but are simply incidental to the changes involved in their formation. All pioneer work has a large element of roughness, violence and disorder. Take a specific instance—the period of great railroad development in this country a generation ago. In that rapid and bewildering transformation of our transportation system with its immense opportunities for speculative gains, practices were common in the violent and fraudulent conduct of corporate elections, in the debauchery of our legislators and even judiciary, in the defiance of law and public order which have earned an unenviable fame for the unscrupulous ability of our railroad promoters. But enlightened public opinion is far severer to-day in its condemnation of those practices than it was a generation ago, and the management of those roads to-day is relatively conservative, respectable and promotive of the general good.

We need not condone the immoralities of our railroad

management. We can recognize, however, even among such a high-toned body of men as our college professors a certain prevalence of methods for securing appointments, promotions and other advantages, which belong rather to political intriguers than to lovers of science. We should recognize further the essential injustice of expecting a higher sense of honor among business rivals than among the members of this profession. But the important fact is that business interests as well as a progressive public conscience have worked toward improvement. This improvement has been marked in the development of our railroad enterprise. We may fairly expect the same improvement in the great industrial combinations as they settle into permanent organizations.

There is a peculiar significance in the fact that while combination is old, trusts are new and are especially the product of the new world. The reason is not far to seek. It is to be found in special conditions existing in America since European settlement here. Throughout our whole history there have existed here scarcity of labor, scarcity of capital and a population ambitious for a high standard of living. Satisfaction of these ambitions was obtainable only through a higher industrial intelligence. Our economic conditions placed a large premium on inventiveness and organizing skill. We have succeeded in applying machinery in production to an extent and with results not equalled elsewhere. Skillful organization has been developed in no less a degree. In fact the use of machinery on a large scale presupposes and requires a higher order of organizing ability. Our industrial leaders developed early in versatility, in acuteness, in the mastery of the practical expedients necessary to success. The qualities of the



American entrepreneur were the result of a long process of natural evolution. All that was wanted was scope for his energies. This opportunity was afforded by the industrial revolution and the superiority of the American undertaker first showed itself in the development of the new means of transportation—the railroad system. In boldness and largeness of plan, in rapidity and success of achievement, the American railroad undertaker has led the world. The newest opportunity was that afforded by that extension of the possibilities of commercial and industrial organization which is summed up in the phrase—the world-market. The enlargement of the market makes a higher type of organization a necessity. The trust is the American solution of this problem. Its effectiveness is already becoming recognized abroad—recognized not only by observers but also by imitators. The wider the market, the more economies can be effected by organization, a principle already grasped by Adam Smith. It is upon this historic superiority in the capacity for organization that the future economic supremacy of America must rest. Protection is not the cause of trusts; it is at the most only an incidental aid to their early formation. Their destruction would probably be the death blow to our hopes for industrial leadership in the international struggle for future mastery. They are the most effective agencies yet devised for preventing the wastes of competitive production. What is needed is an enlightened public appreciation of the possibilities for good which they offer and the limitation of their possibilities for evil through calm and wise governmental regulation.<sup>1</sup>

<sup>1</sup> For permission to publish Professor Sherwood's paper the American Economic Association is indebted to the editors of *The Yale Review*, to whom it had been promised before the Council of the Association directed the publication of all the papers read at the Twelfth Annual Meeting.



## SOME TENDENCIES IN COMBINATIONS WHICH MAY BECOME DANGEROUS.

BY JAMES B. DILL, ESQ.

I. There is quite as much danger to-day to the public from the tendency on the part of some to indulge in unreasonable denunciations and to attempt hysterical and unwise legislation against corporate capital as there is of real peril from the corporations themselves.

II. Against whatever evil is threatening or existing from the corporate evolution of to-day, there is but one infallible safeguard, and that is, an enlightened public opinion, framed upon a clear understanding of the whole situation and based upon an honest desire to do what is right.

*Definition of Topic.*—We are, in the first place, dealing with tendencies only, discussing the probable drift of affairs, dealing with dangers perhaps to be apprehended, although not to-day in existence. These so-called tendencies are to be found only in some of the recent combinations, most emphatically not in all, and by no means in the majority of the aggregations of capital in corporate form. We are dealing largely with isolated symptoms in the case of the few, and not in the makeup of the average or the many. In the next place, one must bear in mind that the danger is not to the public alone. Any dangerous tendency imperils not only the public at large but threatens as well all corporations of integrity. The question before us can, therefore, be discussed with the same degree of earnest inquiry and quite as fully from the corporate standpoint as from the point of public inquiry.

One may go a step farther and add that corporate capital of integrity to-day is as desirous of having a proper line of demarkation drawn between the corporation of integrity and those companies otherwise situated, as is the public at large. This largely as a means of self-preservation. To-day corporations strong in the integrity of their finances, their management and the personnel of their officers, demand some line of demarkation between themselves and other corporations "differently situated" in order that the public may recognize the corporate proposition that "there are corporations and corporations."

It is in view of this fact that the corporation man of to-day, whose sympathies and interests are with, whose holdings are in corporations of integrity, unites with the economist in demanding that the corporation problem shall be worked upon the public blackboard and in plain sight, and insisting that the corporation problem shall be in no part represented by the unknown quantity "X."

Heretofore the attitude of some of the corporation mathematicians has been to write the denominator in large and expansive numbers until the difference between \$5,000,000 and \$20,000,000 has become a difference without a distinction, until the average mind of the average man has failed to grasp the importance of numerical addition and subtraction. Assuming that the denominator of the fraction means the capital stock, so long as the corporate mathematician failed to put upon the public blackboard the numerator indicating the assets of the company, there was no proposition from which the public could deduce any known and certain results. Corporations strong in the integrity of their organization, their management and their financiers are

to-day *forced* by their surroundings, compelled by pressure of business competition and obliged by the force of a growing and enlightened public opinion to draw a line of clear demarkation between themselves and other corporations differently situated—those who cannot stand the test.

The time was when the legal existence of a corporation with a capital of \$50,000,000, carried with it distinction, weight and a degree of public confidence. But to-day a corporation of millions of capital (the difference between \$50,000,000 and \$100,000,000 being scarcely a factor) can be organized for a small sum, its stock issued behind closed doors for services, or other unknown quantities, not issuing "two for one" but literally "millions for nothing." Formerly the great industrial corporations said, "Our capital is millions, we are strong;" but of late these great and sound corporations do not stand alone in the expanse of capitalization; others saw that the million denominator was easy to write on the public blackboard and so long as the sound corporations were unwilling to complete the corporate fraction, so long the imitators could make equal claims for the confidence of the investing public. The market became, therefore, crowded, even glutted with securities of corporation propositions whose denominators were alike magnificent in their expansion, but whose numerators were the unknown quantities. The good were in danger of being injured by the failure of those otherwise situated. Hence, necessity to-day compels corporations strong in their integrity to write the corporation fraction in full view of the public, in order to draw the line of demarkation, in the plain sight of the public, between themselves and others, and thus protect themselves against other corporate propositions with expansive de-

nominators but without numerators that enumerate. Hence it is that we find the proposition to-day true, that integrity of corporate capital and corporate management, and as well on the part of the public at large, demands, and each for its own proper protection, a reasonable degree of publicity in, and as well about, corporate affairs, accounts and finances.

I repeat, therefore, that we are free to examine the question presented and to discuss it in detail and with frankness, as an earnest inquiry not only on the part of the inquiring public seeking light, but also on the part of the corporations based on integrity, desiring the public to know where the distinguishing line is between the good and the bad, between the false and the genuine.

#### A GENERAL LINE OF DEMARKATION.

*Corporate Integrity.*—In discussing what tendencies, if any, are likely to become dangerous, we seek a common line of demarkation upon which all thinking men can agree. This general line of demarkation between the good, and the possibly bad, or resulting evil, is not difficult to find. It lies in the single proposition of corporate integrity from inception to finish.

Wherever on the one side we find a corporation honest in its promotion, careful and trustworthy in the financiering of the proposition, upright in its management, faithful in the discharge of its duties towards its stockholders, and single in its purpose to produce the best business results, in such a corporation as this we look for no tendencies which may become dangerous, nor will we find them.

But, on the other hand, among those corporations which depart from the line of integrity, whose promotion is improper or fraudulent; whose financiering

is unwise or vicious; whose capitalization is therefore excessive; whose corporate proposition has no numerator; only an expansive denominator, thus avoiding a proper degree of publicity; whose management seeks through a minority to control the majority, and whose officers are more interested in the success of their private ventures in speculating in the stock of the company than the success of the business enterprise as an entirety; among such corporations we look for those tendencies which may become dangerous, not only to the public at large but to incorporated capital generally.

#### FIRST DANGEROUS TENDENCY.

*Excessive Capitalization.*—The first tendency which may be regarded as dangerous is excessive capitalization. Excessive capitalization is the offspring of two parents, the promoter and the financier. The marketing of any undertaking, whether good, bad or indifferent, is always dependent upon the existence of the financier, the hand, influence and reputation of the financier is essential to its complete existence.

*Improper Promotion.*—The question may be asked, "what is improper promotion?" From a theoretical standpoint, it is clear that promotion for promotion's sake merely is apt to be improper promotion. As a practical illustration, the promoter who takes \$500,000 worth of assets and issues to the venders of the property mortgage bonds practically to the amount of their purchase price \$500,000, and then, as against the supposed equity in this property issues \$6,000,000, of stock, part so-called "Preferred" and part common; improperly promotes.

The promoter who gives \$500,000 of this stock as a bonus to the vendors, retaining in the neighborhood of

\$3,000,000 of this stock for himself and endeavors to go to the public with the balance, is certainly properly chargeable with improper promotion.

Another degree of impropriety in promotion is attained when this promoter, in order to give to the corporation a standing to which it is not otherwise entitled, seeks to "people" his board of directors with men of reputation, many innocently and unwittingly lending their names to an improper organization, but for a consideration. When, to accomplish this result, he gives large bonuses of stock to these gentlemen to induce them to become directors, he and they as well are chargeable with improper promotion. The gentlemen who go to make up this board and who lend their credit to the enterprise without fully understanding the situation, may be charged with carelessness in assisting in such promotion.

*Improper Financiering.*—Take, if you please, the history of this organization still farther. The promoter who finds himself with a corporation owning property and having more stock issued than assets, possessing a reputable Board of Directors, and knowing full well that he lacks financial backing, goes to the financier and says, "Assist me in putting this stock on the market." If the first question of the financier, whether he be an individual or an officer of a financial institution, is "What is there in it for me?", then the promoter has an opening for improper financiering. If, when the question of the division of bonuses is satisfactorily arranged, that financier, or that company, allows the stock to be put before the public through the agency of the individual or the corporation, then we have a case of unwise financiering if nothing more. The principle is somewhat analogous to that of the man

who issues certificates of character to another who is either undeserving or concerning whom he knows nothing, and issues these certificates of character for a private undisclosed consideration. The individual who, for a private consideration to himself, undisclosed to the public, gives the use of his name to that organization, has certainly committed an indiscretion. That officer of a moneyed corporation who, for a private consideration to himself, undisclosed, it may be to his Board of Directors, recommends, urges or assists in the flotation of an undertaking through his institution, has assisted a financiering which it would not be wholly inappropriate to characterize as unwise, or otherwise, as you see fit. That Trust Company which receives a large compensation, and does not examine the undertaking carefully, and yet puts the proposition upon the market, may make a mistake. Certainly it is unwise.

And so when you ask me as to the general proposition as to what is characteristic improper or fraudulent promotion and as to what is an element of unwise or vicious financiering I answer you, *secret and undisclosed private consideration for Public Commendation*. Where you find secret and undisclosed considerations proceeding from the promotion either to the directors of the corporation itself or to the moneyed corporation, or its officers, in such cases you may look for cases of promotion which are perhaps improper, and of financiering which is possibly unwise.

At this point I desire to be emphatic and to be understood in saying that I am speaking of "tendencies." I am not speaking of facts existing or of which we see clear indications. Most emphatically do I disclaim any intention of even suggesting that this course has been followed by any existing corporation or any insti-

tution of standing. I may be permitted to observe in passing, that that moneyed institution or that financier who observes the greatest degree of caution for and in behalf of the public must ultimately meet with the greatest financial success. When an undertaking is presented to a financier or to a moneyed institution, that financier or moneyed institution must at once consider himself or itself to be retained either in the interest of the promoter, or else to be retained in behalf of the public. Financial institutions and financiers know well that their assistance is sought to facilitate the issue of securities because the public recognizes the fact that the security partakes to a greater or less degree of the character of the institution from which, or through which, it emanates. No man has stood by combinations, good, bad or indifferent, from their conception in the brain of the promoter, at their birth in the hands of the financier, through their organization and through the management of their corporate affairs by the Board of Directors, until they have been launched either to a public success or laid away in the grave under the receiver's kindly care,—no such man with such practical experience, will deny that much of the root of evil and the beginning of dangerous tendency may be found with the promoter and with the financier.

The results of excessive capitalization are threefold:

I. *The Impairment of Public Confidence*—I am not prepared at this time to argue against the expressed opinion of some who say that the flooding of the country with stock and corporate securities, which on their face state in plain language that their par value is \$100, while the public knows that the value is but a small fraction of that amount, has in the long run somewhat the effect of a depreciated



currency. Neither will I take the time to violently differ with those who say that excessive capitalization, which is productive of depreciated corporate securities, will eventually have much the same effect as a depreciated currency. In support of this view it is urged that lack of accuracy in statements relating to financiering, whether in corporate securities or public moneys, can only lead to evil, and that \$100 should amount approximately to \$100, whether written upon the bank bill issued directly by the moneyed corporation, or upon the certificate or stock or the bond or other corporate security emanating from the moneyed corporation and countersigned or registered by the bank or trust company. We all agree that, in order to protect the financial reputation and standing of the country, everything relating to finances and financial institutions should be above suspicion either of mistake in judgment or conscious error.

The country with securities that wildly fluctuate, that are affected by every breath of suspicion or suggestion, is somewhat in the same shape as a ship at sea with a loose and rolling cargo throwing itself from side to side in the hold of the vessel. To the man who thinks, from a financial standpoint, the situation presents a grave question. The root of the trouble is the alarm, panic and fear which is produced from a lack of knowledge and from want of positive information as to how high or how low these securities ought to go, based upon a public demonstration of the corporate fraction. It is the want of publicity, the resulting inability to form an opinion, and want of judgment as to sound values, that causes the panic and creates the ruin.

II. *Improper Dividend Payments.*—A corporation that is excessively capitalized, in order to keep in the

race, must provide for the payment of at least minimum dividends, and that too upon a stock which by no means represents the actual value of the property, and often the estimated earning power of the company is based upon the earning power in prosperous times and with no allowances for times of lesser prosperity. In such a situation, therefore, a board of honest and well meaning directors are faced with a difficulty; they must either pay their dividends to approximately the same amount as their neighbors more fortunately situated, or they must permit their stock to become depreciated in the market as a result of failure to pay dividends. The tendency of an attempt to pay dividends upon this excessive capitalization is to pay dividends in excess of the actual earning power, and out of capital account.

One way in which this is said to have been done is by the conversion of the capital into dividends, a process which in the end is sure to wreck the company, decreasing as it does its earning power each year in proportion to the amount thus withdrawn. The tendency is to supply the gap thus made in the capital of the company by forcing on the books the capital account with property taken from elsewhere. In such a case the tendency again is to conceal from the stockholders the real state of affairs.

III. *Effect on Prices and Wages.*—The third effect of excessive capitalization and the attempt to pay dividends upon such capitalization is a tendency to create artificial earnings upon an artificial capital, both by artificially raising the price of the article produced, and by the depreciation of the wages paid. The result to the public, from an economic standpoint, is objectionable.

## SECOND DANGEROUS TENDENCY.

*Avoidance of Publicity.*—Another characteristic of those corporations amongst whom we search for tendencies that may become dangerous, is the avoidance of a reasonable degree of proper publicity in and about their corporate affairs. The question of publicity is one concerning which there are wide differences of opinion. It is a question concerning which men may honestly differ according to the view point from which it is discussed, but even in the discussion of this question there is a common ground of approach. All must concede that the publicity must be reasonable, and that it must be restricted to those matters concerning which the public has a right to know.

The corporations insist that the publicity must apply as well to one as to another corporation similarly situated; that it is not just to ask a disclosure of one corporation which is not required of another similarly situated.

The proposition has been made that publicity as to any matter in or about the corporation, which is accessible to every stockholder, is sufficient publicity to answer the requirements of a proper demand. There is strength in this assertion because it is based upon the principle that what is known to many is accessible to all interested. This proposition, if accepted, would determine the extent to which the publicity should go. If a corporation had but three stockholders, the details would be of interest only to the few and not to the many. The lack of publicity would not be important in such a case. The corporation, however, having a thousand stockholders, or more, if it should make proper information accessible to each of the thousand stockholders, would thus practically make the information public, because

whatever a thousand stockholders knew, the public could easily ascertain and verify. It is along this line that the proper solution of the whole question may be obtained. We are safe in saying that we may look amongst those corporations who seek to avoid any degree of publicity, even among their stockholders, for those tendencies which may become dangerous, not only to the public, but to incorporated capital. Publicity to all of the stockholders is practically publicity to the world, and the public need not be alarmed about a lack of publicity in any corporation where every essential fact concerning its inception, organization, management and affairs is known to every stockholder.

If financial institutions always felt that they had a public responsibility in refusing to financier organizations whose charter and by-laws gave clear indications of an attempt to avoid proper publicity, of an attempt to keep from the stockholders pertinent information, of an attempt by the minority to wrongly control the majority, such tendencies would often die in their inception. Every trust company knows that a bond must depend, as to the rights of the holders, upon the mortgage, that a corporate bond is not a corporate bond simply because it is a bond, but that it is regulated, controlled, limited or expanded according to the corporate mortgage. If every trust company should insist upon plainly printing upon the face of the bond every limitation upon the bondholders' rights contained in the mortgage, the investing public would less often come to grief. So, if the financial institution demanded that there should be placed upon the certificate of stock every restriction upon the power of the stockholders contained in the charter or by-laws, then the public would less often make a mistake in its investments. The public are not wholly

free from blame, because, if the public would refuse to buy stock in any corporation unless they received with the stock a copy of the certificate of incorporation and by-laws, they would then know what they were buying, so far as the terms of the securities were concerned, although they might be ignorant of the solution of the corporate fraction.

#### THIRD DANGEROUS TENDENCY.

*Evasive Legislation.*—We see another marked tendency to avoid proper publicity in the attempt to pass, and sometimes in the enactment, of what is evasive legislation. By this is meant legislation which seeks to excuse corporations from carrying on what are understood to be statutory duties as to publicity.

*Legislation in New York.*—The history of the statutes of New York, from 1895 down to 1899, shows that by enactment the legislature has from year to year required less publicity, until, to-day, practically all publicity may be avoided. It is impracticable within the scope of this paper, to discuss the law in all its aspects, but take it in respect to a single matter,—that of annual reports.

The courts of the State have emphatically said that the failure of Directors to make the annual reports required by the statutes was not a simple contract failure, but was the commission of a moral wrong, and directors failing to file the annual report were held liable *ex delicto* and not *ex contractu*. From 1848 to 1890 practical publicity was required of corporations as to their capital, debts, liability and stockholders, and a statement containing these details was required to be made and verified by the directors, filed in the office of the County Clerk and of the Secretary of State, and published in the newspapers where the corporation did business.

In 1890 the "Stock Corporation Law" of the State (Chapter 564, Laws of 1890, Sec. 20) provided that every stock corporation except railroad corporations shall annually make a report as of the first day of January, which shall state:

The amount of capital stock and the proportion actually paid in;

The amount, and, in general terms, the nature of its existing assets and debts, and all its receipts and expenditures during the year;

The names of its then stockholders; and the dividends, if any, declared since its last report.

For failure to make such report, all the directors were made personally liable for the debts of the corporation.<sup>1</sup> This was in substance a re-enactment of the Act of 1875, but with this omission, that the law of 1875 required such a report to be published in the newspapers. The Act of 1890 required no publication, but necessitated only a filing of the report. In 1892 the law was again amended, requiring less publicity, and all matters required in the Act of 1890 were eliminated excepting the following three:<sup>2</sup>

1. The amount of capital stock and the proportion actually issued.
2. The amount of its debts, or the amount which they do not then exceed.
3. The amount of its assets, or the amount which its assets at least equal.

Under this provision of the statute as thus amended publicity was practically done away with except as to the amount of capital and the proportion actually issued. There was no requirement of any information

<sup>1</sup> Laws of 1890, p. 1072.

<sup>2</sup> Laws of 1892, Vol. 2, p. 1832, Sec. 30.

as to how this capital had been issued, whether for property or for cash. The second and third provisions amount to nothing. The amount which the debts of the corporation do not exceed is sufficed by saying "that the debts do not exceed one million dollars." The third provision,—an amount which its assets at least equal, would be answered by prescribing "that its assets equalled one dollar"; and from neither is any real information deducible. The result of this amendment of 1892 was practically to remove all actual publicity except as to the amount of capital stock and the proportion paid in.

In 1899, however, a new section was added to the Act, providing that "No director or officer of any stock corporation shall be liable to any creditor of the corporation because of the creation of any excessive indebtedness, or because of any failure to make or to file an annual report, whether heretofore or hereafter occurring, in case of any debt, as to which personal liability of directors or officers may be or shall have been waived by such creditor, or by any one under whom he claims; or by any provision of any instrument creating or securing the debt."<sup>1</sup> This statute therefore, practically did away with the duty of publicity by providing that it might be a matter of private barter made between the creditor and the corporation.

This Chapter 354 of the Laws of 1899 made it practicable for every corporation to avoid publicity by adding to every contract of liability specific words of waiver of the individual statutory responsibility of the stockholder and director. If the courts of highest resort of the State of New York were right in declaring this was a moral duty, what can be said of the legislative

<sup>1</sup> Laws of New York, 1899, Chap. 354.

act which permitted this moral duty to be avoided by directors of a corporation for the consideration, if you please, of a dollar?

This same statute of 1899, which does away with the moral duty of a director to make public reports, removed another ancient landmark of publicity which had for years existed in the State of New York, namely, the prohibition against the creation of indebtedness in excess of the amount of the capital stock. This statute against excessive indebtedness proceeded upon the presumption that the paid up capital stock of a corporation was a fair statement of the value of its assets, and that so long as the indebtedness of the corporation did not exceed its capital stock, there was property sufficient to pay the creditor. The creditor might rest content, assuming that the publication of the capital stock and the amount paid in was in fact the publication of the maximum amount of indebtedness of the corporation, because the one was required to be contained within the other and not to exceed the other under penalty of the liability of the directors to pay the debt thus in excess. But the passage of the act of 1899 was a letting down of the bars in this respect, and to-day no such assurance is held out to creditors of a corporation, because it has already become general for corporations to avoid publicity by insisting on inserting in their contracts a waiver of liability of directors and stockholders.

*Legislation in New Jersey.*—When we turn to the state of New Jersey, we are told that required publicity has been on the increase as represented in the legislation of the last ten years. It is true that there has been marked improvement in the statutes of that State within the last five years, in the direction of publicity.



It is true that in 1898 (Laws of 1898, p. 410) an act was passed requiring every corporation in its certificate of incorporation and in every report thereafter filed or published, to state the location, by street and number, of its principal office in the State, and the name of the agent designated to be in charge thereof and upon whom process against the company was required to be served. This was an act, it is true, somewhat in advance of modern legislation, in requiring a corporation from its cradle to its grave to have a known and published place of business and requiring that corporation to insert upon every document which it filed or published the address of the corporation and the name of the person in charge.

It is likewise urged, and in accordance with the facts, that since 1849 the provisions of Section 44 of the General Corporation Act had been in force providing that every corporation must have and maintain a principal office in the State of New Jersey, with an agent in charge thereof, and in that office must be kept a transfer book in which transfers of stock could be made, and the stockbook containing the names of all of the stockholders and their addresses, together with the amount of stock held by each, all of which should be open to the inspection of any stockholder and any other person entitled to see the same at all times during business hours.

It is also true, as stated, that in 1898, Section 33 of the General Act was amended, and more publicity was required in so far that, while previously it had been sufficient to have a list of the stockholders open to the inspection of the stockholders themselves always ready twenty days before any election, the law as then amended required the book containing the names of the stockholders with their respective holdings and their addresses to be always open to the stockholders and to be

presented at any election, and added, what is an effective penalty, that the failure to do this disqualified any member of the then board from re-election.

We concur in the statement made respecting the law of New Jersey, that this presents stringent enactments for publicity among the stockholders as to their co-stockholders and their holdings.

As to the payment of the capital stock, the law of the State of New Jersey, it is conceded, is even more stringent than that of New York as to publicity, in that, with the payment of each installment of capital stock, a certificate is required to be filed stating the amount of the installment, the total amount of capital then paid in up to that date, and the manner in which the payment was made, whether in cash or in property.

Annually, too, each corporation was required to make and file in the office of the Secretary of State a statement giving the names and addresses of all the directors, their terms of office, the date of their election or appointment, the character of the business, the street and number of the principal office, the name of the agent in charge, and providing a penalty for failure to file such report in the shape of a liability of \$200, in suit to be brought by the Attorney General of the State of New Jersey.

The law also makes the books of account and vouchers open to the inspection of the stockholders, and gives the Chancellor of that state power at any time, with or without notice, to issue an order requiring the corporation to produce its books in court for examination by a stockholder or creditor.

These, then, are the facts upon which the argument is based that New Jersey has improved in the matter of enforced publicity.

We notice, however, that there is no statute, either of the State of New York or of New Jersey, which is similar to the provisions of the English law to the effect that all stock issued shall be held subject to payment in full in cash in the hands of whomsoever it may be, unless before the issue and allotment thereof, a contract shall be filed in the registered office of the company, which contract shall disclose in detail the consideration in the way of services or property for which the stock shall be issued in lieu of cash, and that, in the event of such filing of such contract, that stock can be issued for property or services rendered to the amount of the par value of this stock.

#### FOURTH DANGEROUS TENDENCY.

*Stock Speculations.*—Of necessity, briefly, we take up the last, but by no means least important point of this discussion. We touch upon a tendency which is not found in the corporation, but which is said to exist in certain corporate officers. I differ with anyone who asserts that this tendency to speculate in stocks of the company is often found, or that it is frequently seen in officers or corporations of standing and importance. It however seems true that any tendency in any corporation to have two interests in the business equally important and equally engrossing the attention of the officers, the one the business end of the corporation, and the other the speculative or Wall Street end, is a tendency which may be, with emphasis, pronounced as dangerous; dangerous to the corporation itself as exposing it to attacks from sources other than those of the business itself; dangerous to the officers of the corporation as tending to take their attention from the one and only end and purpose of the corporation, viz.,

the betterment of the industry in hand; dangerous to the stockholders, as furnishing to them a false and unwarranted indication of the progress, or, as the case may be, the failure of the business itself.

We cannot assume that any of the present great combinations were put together for Wall Street purposes, nor can we agree with anyone who would intimate that they are being conducted to-day for the purpose of maintaining Wall Street speculations in their own stocks. The great captains of industry do not attempt to be great captains in speculation at the same time, and in one and the same transaction. If an officer of the corporation should have one eye upon the business end of the company and the other upon the stock of his company, as a personal speculation, his attention might be diverted from the proper object of the corporation so that failure in both directions may be the result.

In the ordinary walks of life, such a diversion from the true aim of business enterprises would not be for one moment tolerated. No employer would retain a clerk who divided his time between his business duties and the ticker. That captain of a trans-Atlantic steamship who should be guilty of indulging in private wagers as to the ship's run per day, or as to the length of her voyage, or as to the time when she would pass a certain point, would be instantly dismissed at the end of his home voyage, because the tendency on his part (if allowed) to indulge in private speculation, would endanger the lives of his passengers, the safety of the ship and the regularity of his duties, and all for the purpose of private gain.

If this tendency exists even in a small degree and among the least important corporations, it is a tendency

in the *wrong direction*, and one that should be carefully guarded against. The temptation to indulge in speculation of this sort comes from the assumed possession of so-called inside information and therefore where the stockholders, and thus the public, are thoroughly informed as to all of the financial deals of the corporation, such inside information is not as likely to exist and the prime causes of such speculation are thus removed.

#### CONCLUSION.

In conclusion, permit me to observe, that I am no believer in drastic legislation or an attempt to bring about by enactments of statutes that which should be regulated by an intelligent public opinion. Incorporated capital can better be led by an intelligent public opinion than forced by unjust and hysterical legislation. Reasonable publicity and proper restrictions are advisable and necessary. Much publicity and many restrictions will be voluntarily assumed by corporate capital because of a desire to raise their own standing in the public community; to separate themselves from others differently situated.

It has been suggested that there should be a separate corporation act requiring greater publicity and providing for a full compliance with a proper law in this and other respects. This need not at the outset be made applicable to all corporations, but such a corporation act should provide that corporations complying with it should have a greater degree of freedom from petty annoyances suffered by those under other acts. Let the public exchange for true publicity, freedom from state surveillance as to unimportant details. A high moral standard is often better than police supervision, and the proper aim should be to induce incorporated capital to

voluntarily take this high moral ground rather than attempt to force capital by strict supervision and petty surveillance.

The national banks, organized under the national act, are compelled by the provisions of that act to comply with strict requirements as to the management of their finances and the publicity of their affairs. In return for this they are granted certain immunities which are not incidental to ordinary corporations, their assets, for example, are free from attachment, no matter where located. Applying this same principle, it has been advocated, and with sound wisdom, that a high-class corporation act be passed embodying all these particulars so far as the public and publicity are concerned, which are desirable, but in return granting to the corporation immunity from other details of less importance. The result would be the same as in the case of the banks. A national bank is by many deemed to be an institution of a higher standard than a state bank, hence we find more national than state banks. Apply the same principle, create a high class of corporate law, and those corporations who are able and willing to stand the test would voluntarily come under such a law for the very purpose of showing clearly in the minds of the public the difference between themselves and those corporations who are not able to thus stand before the public. In the matter of transportation, one may go from New York to Chicago for \$10, or may spend \$35. It is a question of choice, but that choice is to a large degree influenced by the company in which one is permitted to go under the \$35 rate and forced to go by the \$10 rate. The man who would go to Chicago for \$10, is deterred from this by the fact that he would be obliged to go in an emigrant train and suffer all the dis-

advantages of thus being classed by the public, while the man who desires to travel in comfort and to be recognized as a man of means and standing, avails himself of the higher priced but more luxurious method of travel. Legislation is not needed to compel travellers to go from Chicago to New York by the limited train; the railroads do not seek to compel the use of the high-grade means of travel by law. These matters regulate themselves.

In all these discussions as to rights, remedies and enforcements of certain matters of law, the safest and surest way to bring about the desired result is to educate the public and to enable them to classify the corporations according to the company with which they associate.

Professor BEMIS: I will try to say just a word, to start the discussion, along the line of securing publicity. I merely wish to call attention to its difficulty by referring to the experience that we have already had in trying to secure it. We have not made the attempt in the case of trusts, but we have attempted it in the case of railroads. We know that, as a result, we have secured a very valuable mass of material from a member of this Association, Professor Henry C. Adams. And yet the investigations that I have been able to make lately have brought out the discovery, which is really no discovery after all, that there is a vast mass of most important matters concerning railroads which is really known to our commissioners, but about which they do not inform the public in any real degree. I refer to secret rates and discriminations. Some of the most important and valuable things in this connection that we would ex-

pect our railroad commissions to make public they may indeed hint about in their reports, but in general very little real information on these matters is being revealed. Massachusetts has the reputation of having the best railroad commission in the world. But even in Massachusetts you will search almost in vain, in all the thirty reports of that commission, for the discovery of what a few weeks' investigation will show exists to-day, namely, that the railroads of that state are so honey-combed with discriminations that nothing whatever can be told from the quoted rates on any railroad in the state as to the rates which it is actually charging the shippers. You will find, for example, as Professor Commons especially has been discovering, that the quoted rates per ton mile on local freight on one railroad system of that state, even on the class of goods on which the lowest charge is made, that is, on coal, are higher than the average receipts per ton mile on all classes of local freight on that road, and the difference is accounted for by the Massachusetts State Commission, in private correspondence, as due to special rates. Yet they don't take the public into their confidence at all in this matter, and so give us no conception of the absolute farce of the quoted rates. Take a matter upon which we have more fully recognized the right of publicity. For a long time the public has recognized gas and electric light companies as monopolies. We have had a commission at work gathering information, and yet the commission refuses to give the public the information which it secures from the companies. It does not even verify the reports of the companies, although the law gives it the right to inspect their books and determine how they shall keep their records. Yet in Haverhill it was revealed that a gas company had been mak-



ing false reports to the commission. The best defense of such secrecy, even in such a case as the Massachusetts Gas Commission, is given us by a member of our Association, who assures us that the corporations must be recognized as stronger than the public, and that the only way we can deal with them is to give them opportunities for still greater profits and to lock up their reports for a generation. I am not sure but that the position of the gentleman is the correct one, but certainly we must recognize the situation. I do appreciate that publicity is the first step and that if we cannot secure that we cannot do anything else with the trust question. I think that is the practical point for beginning. But we cannot secure publicity in the trust if we cannot secure it in the railroad. We cannot secure it in the railroad if we cannot secure it in municipal monopolies. And therefore I would say that the door through which to approach the trust question is the railroad problem, and the door to that is the municipal problem, because that is simpler. The question of securing publicity is after all much harder than most people think.

Professor JENKS: Two questions I should like to ask in connection with this discussion. In the first place, is there, as a matter of fact, an element of monopoly in these great combinations of capital? So far as I have noted, that point has not been made clear. Mr. Dill, I judge, spoke on both sides of it. He made the statement that from his business experience he knows that some of the larger combinations have considerably reduced their prices, and the implication was that, as a matter of fact, the prices were kept down to competitive rates. On the other hand, he thought that in order to pay dividends on "wind," it was necessary that prices

should be raised. If we can take the first assertion and carry it to the logical conclusion, the implication is that there is no real monopolistic element in these combinations; that competition does work, and that prices cannot be put above competitive rates. If the second proposition is true, that over-capitalized companies can and do pay dividends by forcing prices above competitive rates, or by lowering wages, then there is an element of monopoly in the combination. I should like to have that point developed somewhat fully.

I may add that I have myself heard members of some of the great combinations say that they believe that, within certain limits, there is monopoly, simply from the possession of great capital and the fear thereby produced in the minds of would be competitors. Now if there is an element of monopoly in the great combinations so that prices can be shifted at the will of the managers to an appreciable extent, it seems to me that it modifies considerably some of the conclusions reached by Professor Sherwood. He stated that he believed the limitation of the combination was in the genius of the manager. He called attention to the fact that misdirected production was an evil and needed to be guarded against. If there is a monopolistic element in the combination, so that the manager can shift prices at will, and so that he can determine the amount to be produced at will, even within moderate limits, and thus control the market, it does not require so very much genius to direct a combination successfully, no matter how large, and there would not be much fear of competition by rivals.

Professor Sherwood stated that a great benefit of the combinations is that they get rid of the weak producer. A great many people have been inclined to think that

perhaps this is a social evil ; that the combinations get rid of the competitor too easily ; that that there is no longer a fair opportunity for a young man to get into business in an independent way ; and that every person, except a very few, must have a head man over him. From this fact, that the great mass of people must be dependent upon others, and must take orders from others, comes, many think, the greatest evil of combinations. Is this true ? I should be glad to hear these two questions answered.

Professor LINDSAY : I wish to say a word on the subject of publicity as presented by Mr. Dill. Professor Bemis has called attention to the difficulty of obtaining publicity. If the corporations are anxious for publicity we should like to know just what kind of publicity organized capital is interested in securing. The limitation suggested by Mr. Dill seems to me to be one to which most of the members of this Association would not agree. If the publicity is to be limited to stockholders, it is a very decided limitation, and probably not all of us would agree to Mr. Dill's proposition that the public is interested in the business of corporations only in proportion to its representation among their respective stockholders. We have some laws on the subject of publicity in reference to the list of stockholders. A stockholder has access to the list of stockholders. I believe there has been no decision of the courts justifying a stockholder to copy the list of the stockholders.

I hope Mr. Dill will speak about the second point Professor Jenks referred to, and that is, the influence of the large combinations upon the development of the entrepreneur. The present selective process by which the efficient entrepreneur is obtained is certainly a costly

one. May it not, however, be still the cheapest one in the long run? The development of a high order of undertaking genius in the few seems to me to depend upon a wide range of undertaking experience in the many and it is a question worthy of consideration whether or not by cutting out to a large extent the possibilities of such experience except for a very few persons under a regime of large corporations we would in the course of a few generations have very little available material from which to make selections. Of course it is socially desirable to have the best men picked out and given large powers at the head of these great combinations of capital. But in the course of a few generations it may not be possible to make such happy selections for the large corporations as it is possible to do now.

Professor GRAY: I have been particularly interested in the remarks of Professor Bemis on the Gas Commission of Massachusetts and in the references of Mr. Dill to evasive legislation. I have been asked by more than one member of this Association why the gas commission does not publish the details of the reports made to it by the companies. Without authority to speak for the commission, or any of its members, from my knowledge of the general situation I will venture to assert that the details of these reports are kept secret lest they should be used by those who might not understand them to bring about evasive or ill-digested legislation. Notwithstanding this secrecy, it must be said that the accounts and records of the gas companies in Massachusetts are better kept than any other state in the country. They are not only more systematic and more accurate in each individual case, but are uniform for all com-

panies in the state—a fact of great scientific importance, as it furnishes a basis for comparative study.

It is evident that the commission cannot go forward any faster than it can carry the legislature with it. But, as has been so well said here this morning, we cannot expect the legislature to act more wisely than the temporary opinion of the average voter demands. The evils that exist are, therefore, vitally connected with legislation. The commission is the creature and the servant of the legislature. The hope of further progress lies not in criticising the commission, but in educating the average voter until he will not stampede the legislature and compel it to pass improper acts. This particular commission has probably not done all the public supposed it would do, but it has done much—probably as much as it could do and command the support of the legislature.

Mr. GIDDINGS said that we must not suppose that the suppression of competition between one small producer and another who has been making the same kind of goods is an extinction of the competition which is most important in determining prices. So long as the total purchasing power, or money income, of the public is not unlimited, and so long as there remains the possibility of substituting one sort of satisfaction for another in our consumption, trusts will compete with one another for the largest possible shares in society's distribution of its total income. Mr. Giddings further argued that this competition, like the competition of small producers with one another, tends to reduce market prices to the level of normal prices.

Professor CARVER : It seems to me that there are two aspects of undertaking genius. One consists in the

ability to produce a better quality of goods at a low cost, and fight rivals by that method. Another aspect consists in the ability to fight rivals by strategic methods. In the former the public is vitally interested. They want that kind of undertaking genius at the head of things. They are not particularly interested in having the second at the head of institutions. Now it seems to me that very likely the development of trusts tends to exaggerate, or at least it does not tend to diminish that second kind of undertaking genius. The man who by this process of natural selection finally comes to the lead of a great combination, may keep that position and maintain that position largely because of the possession of that kind of undertaking genius which consists in the ability of running out all rivals by strategic methods, sometimes by discriminations, or by unscrupulous methods perhaps. Now it seems to me that there lies one answer to Professor Jenks' question, that through the possession of that kind of undertaking genius on the part of the heads of these combinations, possible rivals are scared out and thereby the combination is enabled to maintain a price somewhat above competitive rates.

MR. MARBURG: The large question we have to consider is the saving of waste in industry. Progress is simply a saving of waste and society is concerned principally with the net results of industry. There is no member of this Association but has felt the enormous waste in the present competitive system, and felt that it is this waste which has produced the industrial trust.

Prices become a minor consideration for the reason that if the net product of human industry is largely and permanently increased it can be only as the concomitant

and result of a large and permanent increase in the welfare of the people.

Industrial consolidations must stand or fall according as their ultimate results in this respect are good or bad. Our attitude toward the industrial trust must depend largely upon whether we consider it permanent or something that will fall. The history of railroads in this country helps us to decide this. We know that some of the industrial trusts existing to-day will fail through mismanagement or through proving false, instead of natural, consolidations. What will happen? Will the business be broken up and go back into private hands? Railroad companies which have gone into the hands of receivers have, as a rule, not broken up into smaller companies. They have been reorganized with new capital or have been merged into larger combinations. Will history not repeat itself, at least with respect to such industrial consolidations as effect a saving, and which are not merely born in the brain of promoters?

The managers of industrial trusts will be more than human if they resist the temptation to advance prices should the trust become a practical monopoly. This evil may be offset by organizing the companies under a national law and recovering for the people a part of their profit in the form of public revenue. The government might assume towards them an attitude similar to that of the Prussian government toward the Imperial Bank. It might say to them: "You must issue stock only to the extent of the actual cash invested in the business. You may make a profit of 10%, 12%, or 15%, but all profits above that amount, whatever that amount may be, you must share with us." The government should take the lion's share of this excess, giving only sufficient of the excess to the company to stimulate invention and improvement.

Professor DEWEY: Too much emphasis has been laid in this discussion upon the side of the investor,—upon the question of prices to the consumer. The subject has not been considered adequately enough from the point of view of the social good. Competition deals not only with prices but is in danger of suppressing the opportunities for young men. There is, to be sure, under large scale industries an opportunity for the genius, but for the great number of young men who have not been prepared for this highly organized industry, there may be loss and sacrifice. The question arises as to whether we should not secure legislation which will not only give publicity, but will also check to a certain degree the rapid transformation which is now going on. Large scale industry in itself may be an ideal to be looked for, but we should consider the possible dangers of too immediate rapid changes.

Professor GARDNER: I wish to refer to an impression which seems to arise from papers this morning. I refer particularly to Professor Sherwood. He pointed out that we have been practically through the same experience before; that the growth of large industries has been attended by economic and political evils, and that the railroads particularly have had to go through processes of reorganization resulting in the establishment of sounder conditions. He says that the trust problem will work itself out in the same way, and that the weeding-out process will result in development of sounder conditions as has been the case with the railroads.

It seems to me that this view covers up the gist of the problem. No one proposes to throw obstacles in the way of the development of industry on a large scale so far as it takes place in accordance with the interests of



the public and so far as it tends to produce the entrepreneur described by Mr. Sherwood. I take it, however, that the lesson we are to draw from past experience is not to allow the problem to work itself out without any attempt to control the course of events and to suffer again, in connection with industrial enterprises, the evils incident to the mismanagement and reorganization of railroads, but rather to see how we can control this new development so that we may reach the same results that have been reached in the case of railroads without going through the process of over-capitalization and reorganization. This, and not the advisability of restraining organization on a large scale, is the practical question. If the trust is the best form of organization, it will survive. The only question is in regard to the road by which we shall reach the final result.

Professor SHERWOOD: I have been accused of being an optimist, but I am simply a fatalist. I look on the trust as inevitable. I want to see what are the possibilities for good in these combinations, and what are the possibilities for evil, and then seek for some practical method to realize the good and to avoid the evil. The last word in my paper expressed this idea. It is through conservative rational action by the government that the problem must be solved. Just how this will be accomplished is yet to be worked out. I want to endorse what Mr. Dill said, that by all means publicity is the first thing we must have.

My statement that society wants to get rid of the weak entrepreneur has been criticised. The weak entrepreneur is decidedly a social evil. We don't want every clerk in a country grocery store to start a store

for himself as soon as he can get credit for \$50. As society grows more compact and the social organization becomes more complicated, the opportunities grow relatively less for a man in independent business. We must limit the number of competitors if we are not to produce at a great loss to society. The practical question is, how far is it advantageous for this process of combination to go on? The trust problem is the problem of determining where that limit should be.

MR. ALLEN RIPLEY FOOTE: It appears to me the consensus of opinion is that public opinion must be relied upon to correct the evils, feared or experienced, from the organizations of corporations and trusts. Publicity is demanded as a basis for public opinion. If public opinion is to be correct, the basis on which it rests must be correct. This raises the question at once, how much and what kind of publicity shall we demand? Industrial corporations may be divided into two classes: (A) Natural Monopolies. (B) Competitive Undertakings.

The first class includes all public service corporations. These corporations should be constituted and dealt with as monopolies. In such cases public welfare and private interests should be safeguarded by administrative regulation, based on laws requiring all public services rendered by public service corporations to be sold to users at prices that will represent only their true cost plus a reasonable profit. Reliance for the complete elimination of all evils, feared or experienced, from this class of corporations must be upon full and correct publicity.

The second class includes all corporations engaged in industrial, commercial and financial pursuits properly belonging in the economic group of competitive occupations. When publicity is demanded from this group,

the demand must be guided by the fact that, to the extent to which publicity is required, competition will be limited. All economists of wide authority, all legislation and judicial opinions agree that, in the domain of competition, the force of free and unrestricted competition must be relied upon as the most efficient means of safeguarding public and private welfare. The essential condition of effective competition is secrecy of accounting. In the sense in which that term is used in discussing corporation and trust questions, publicity and effective competition are incompatible. Full and correct publicity of the private affairs of competing corporations and trusts will unavoidably lead to consolidations and the creation of monopolies. Is this what the people want? For competing corporations and trusts choice must be made between secrecy in accounting with competition, and publicity in accounting without competition. Which shall it be?

## RAILROAD RELIEF AND BENEFICIARY ASSOCIATIONS.

BY W. H. BALDWIN, JR., PRESIDENT OF THE LONG ISLAND RAILROAD COMPANY.

It is my purpose to trace briefly the development of the beneficiary, insurance and relief features of railroad organization, and to suggest their present bearing upon the important relation between railroad corporations and their employes. A complete analysis and comparison of the various forms of relief associations would far surpass the limits of my time, and furthermore such a paper has been published by the Commissioner of Labor at Washington. It is well, however, to indicate the more important features of the relief work in order to place it properly in the complex relations between railroad corporations and employes. It may be described as the final step in the process of the evolution from simple railroad organization to the present highly developed organization of many railroad systems.

The railroad corporation performs a public service. "Railway transportation is essentially a Government function." Its employes approach the classification of public servants. The public is the jury which passes on the questions affecting railroad service and management. The relation between the employes of a railroad and the management is always of vital interest to the public. The higher the development of the organization of a railroad, and the more nearly its service approaches to its public functions, the better the class of its employes, and the more assured their permanency of employment, the more apparent becomes the lack of real cause for friction between the corporation and its

employees, and the more efficient is the protection of the railroad by the public in respect to those questions which it is the province of the public to decide.

The credit for working out the relief and insurance features in railroad organization is not due to the railroad corporations alone. The problem was first solved by the employees themselves. They now must welcome the growing tendency of large railroad corporations to provide a system of relief and insurance, for even though it may in some respects take the place of, or interfere with their own insurance department, and possibly with their brotherhoods, the existence of a relief department on any railroad shows a more highly developed organization, in virtue of its recognition of the wisdom of providing a protection, which it has always been the aim of the employees to secure through their own efforts.

The development of the associations for relief and benefits for railroad men is contemporaneous with the extraordinary growth and extension of the railroad system since the Civil War. The earlier history of the railroad indicates a simple form of organization. Short mileage, small cars, slow speed, light traffic, with comparatively few employees, who were all known personally to the officers in charge of operation, made a simple problem of the relations between the railroad corporation and its servants. The local nature of the lines with officers and employees selected from the local territory, tended to bring about a personal relationship between officers and men, and there was little need of a more complex organization. But with the rapid growth and combination of railroads in the early sixties, with their larger and more complicated operations, with the need for stability of organization and permanency of

employment, with ever increasing danger of service, there grow up a demand for relief in cases of accident and sickness and for an insurance benefit in case of death. This need was not recognized formally by the railroads; it was met, however, by the employes themselves, who organized benefit associations for their welfare and relief. The importance of these associations of employes to their own welfare as well as to the railroads has been marked. The improvement of the status of railroad employes largely by reason of their own associations raised the standard of men engaged in the service. The employes and the public received its benefits and the railroads unconsciously, and involuntarily, perhaps, profited by the better standard developed.

As an indication of the need of special organization for the relief of railroad employes the official figures given by the Interstate Commerce Commission in their annual report for 1898 show 1,693 employes killed, 27,667 employes injured, or a total of 29,360 killed or injured out of 823,476, the total number of employes in the railroad service in the United States. That is to say, three and five-tenths per cent. of the employes were either killed or injured in that year, and these figures include only those injured sufficiently to warrant an official report.

There are two forms of association for insurance and relief which have originated with the employes; the one an association for employes (sometimes classed as a whole) of any separate railroad system and entirely supported by its membership, the other the more important national organization which includes in its membership all railroad men in any special line of service who may join and contribute to the general support of the association.

Under the latter class have been formed several national organizations or brotherhoods, each organized for the general welfare of the men employed in some particular class of work, and applying to all the railroads in the United States. The principal and older national organizations which have beneficiary or insurance features are :

(1) The Brotherhood of Locomotive Engineers, organized August 17, 1864.

(2) The Order of Railroad Conductors, organized July 6, 1868.

(3) The Brotherhood of Locomotive Firemen, organized December 1, 1873.

(4) The Brotherhood of Railway Trainmen, organized September 23, 1883.

The insurance and relief departments of all these organizations are similar. As a rule the general officers conduct the insurance department as a part of their regular duties. The engineers, however, perform their insurance functions through a separate department. As a rule the insurance departments of the brotherhoods have been wisely managed, have maintained a good financial standing, and have been able to pay the insurance benefits for which they were liable. The amount of benefit or insurance and the conditions under which insurance may be taken varies with the different organizations in accordance with the greater or less risk in the class of service in which the men are employed. The benefit department of the Order of Railroad Conductors, for example, permits its members to insure for amounts from \$1,000 to \$5,000 according to the age of the applicant, and is limited also by satisfactory physical test. The assessment may be \$16 per year per \$1,000 insurance ; it averages about \$14 per

year. Temporary relief for sickness, accidents or disability is left almost entirely to the local divisions, but as a matter of fact relief is generally given. Provision for temporary relief is made by local assessment upon the division. Thus a careful examination of each particular case can be made, and with full knowledge of all the conditions the most efficient care can be given at the least expense. This provision for temporary relief is further aided and supplemented by Ladies' Auxiliaries, so called, which aim to further the work of the local division and to see that no case of distress, if worthy, shall lack the proper care and assistance. There are no statistics to show the amount of money expended in this relief work.

The growth of these fraternal organizations is the evidence of their success. The mutual co-operation for help and assistance in case of accident, sickness and death, has supplied a necessary link in the complete organization of the railroad service. It may be noted that this need for relief and insurance was recognized by the men themselves nearly twenty years before the matter received formal attention on the part of the railroad companies. The gradual evolution of the hospital, relief, and insurance associations as a recognized department of the railroad organization is indeed interesting, and exemplifies many important and instructive phases of the relations between the employees and the railroad companies. The first formal recognition by the railroads of the need of providing means of relief for accident, death and sickness for employees in all departments was made by the Baltimore & Ohio Railroad Company in the formation of the Baltimore & Ohio Employees Relief Association in May, 1880. A similar organization was formed by the Pennsylvania Railroad Com-



pany on February 15, 1886; by the Chicago Burlington & Quincy Railroad on March 15, 1889, and by various other companies at divers times, so that to-day about fifteen per cent. of the mileage and twenty per cent. of the employes of the railroads in the United States are provided for, through relief associations as departments of railroad organization. There are many railroads which have thoroughly organized hospital and medical departments only, to provide for relief by medical attendance in case of accident or sickness, but without insurance or beneficiary departments. Such hospital departments have been especially important and effective in the western country, as a large percentage of the railroad employes in earlier days were men who went to the West from the East, and were without homes or means of proper care during illness. These hospital departments on some railroad systems have been very highly organized and have proved most successful. In some instances a medical department is organized by and at the expense of the railroad company exclusively, and in other cases the expense of the department is borne by assessments upon, or contributions from the wages of the employes, according as compulsory or voluntary systems are in force. These relief measures are found in every stage of development, varying with the ability of the corporations to support them and with the different points of view of the officers of the corporations. But there is a tendency on the part of railroads generally to provide relief of some sort for their employes.

The motives are both philanthropic and financial. The danger and risk in railroad service demands organized supervision. The highly developed railroad system of to-day requires for wise and economical ad-

ministration, a personnel with a loyal interest in the service, and a cordial relation between the corporation and its employes. This result is materially furthered by an expectation among the men of permanency of employment and of relief and aid to themselves or their families in case of sickness or death.

Generally speaking, the railroad relief associations are supported partly by the corporation and partly by the men. In some instances membership is compulsory and in others voluntary. The general rule with respect to assessments in all relief and hospital associations, whether compulsory or voluntary, is to assess the employe in proportion to the amount of wages received.

The aim of the more highly developed organizations is to provide means to give relief :

- (1) In case of injury or accident.
- (2) In case of sickness.
- (3) In case of old age, by pension, and,
- (4) To provide insurance benefit and pay funeral expenses in case of death.

The Pennsylvania Railroad Relief Association affords an illustration of the methods adopted by the association which has the largest membership, and is probably also the most highly organized association of this sort at the present time.

The Pennsylvania Voluntary Relief Department, which was organized February, 1886, is managed by a joint advisory committee representing all the lines associated. The general manager of the Pennsylvania Railroad is chairman, and the superintendent is secretary of the advisory committee. The employes who contribute to the relief department and are regular members thereof appoint each year by ballot on January 1st one member to represent them from each of the six

divisions of the railroads associated together for this department. The railroad companies each select a representative in their behalf. Thus a board of six representatives of the employees and six representatives of the railroad companies, together with the general manager and superintendent, form an advisory committee. All of the corporations interested are parties to the joint agreement in behalf of themselves and their employees, agreeing to appropriate their ratable proportion to the joint expense of administration and management and the entire outlay necessary to make up deficits for benefits to their own employees. An outline of the more important provisions of the plan is as follows:

First, and most important: It is a regular department of the company's service in the executive charge of the superintendent of the operating department.

Second: The fund is created by voluntary contributions from all classes of employees, and appropriations are made, whenever there is any deficit, by the companies. Any income from investments of the fund, or any profits or gifts, legacies, etc., are added to the fund.

Third: The company guarantees the fulfillment of the obligations of the association, takes charge of its funds, and conducts the business entirely at its own expense.

Fourth: If there is any surplus in any period of three successive years, it is set aside to be used for a fund for superannuated members. But such surplus is not set aside until due allowance is made for liabilities incurred during such three years. The allowance is kept as a relief liability fund. The surplus for superannuation is called the "Relief Fund Surplus," the income from which, after January 1, 1900, will be used as

superannuation fund to pay superannuation allowances.

Fifth: The employees are divided into five classes and contribute in proportion to their ability to pay as follows:

(1) Employees receiving any rate of pay contribute seventy-five cents per month;

(2) Employees receiving \$35 or more contribute \$1.50 per month;

(3) Employees receiving \$55 or more contribute \$2.25 per month;

(4) Employees receiving \$75 or more contribute \$3.00

(5) Employees receiving \$95 or more contribute \$3.75 per month.

(6) An employe not over forty-five years of age, after having passed a satisfactory physical examination, may join his own or any lower class. Any employe not over forty-five years of age, if he has been in the service five years continuously and a member of the department for one year, may enter a higher class than his pay would permit upon passing a satisfactory physical examination.

(7) Any member may contribute for additional death benefits, as follows: Those of the first class may subscribe for one additional benefit of the first class (\$250), and members of each of the other classes may contribute for as many additional death benefits as the number of their class indicates. The fifth class, for example, might contribute to five or less death benefits, in addition to the five regular benefits of \$250 each allowed in that class.

(8) Any member may withdraw at the end of any month.

(9) Membership may be retained during absence from duty by reason of furlough, or suspension, for a period not longer than nine months.

(10) Contributions for death benefit additional to the

death benefit of the member's class are determined by the age of the member at the time of taking the additional death benefit. Employees not over forty-five years of age pay thirty cents per month for one additional benefit of the first class. Those from forty-five to sixty years old pay forty-five cents per month. Those over sixty pay sixty cents per month. The benefits paid for accident in the company's service are as follows: Members of the first class, each day for fifty-two weeks, fifty cents per day; after one year, each day, until well, twenty-five cents per day; the other classes in exact proportion, that is to say, the fifth class, \$2.50 for each day for the first fifty-two weeks, and \$1.25 per day thereafter.

For sickness or injury other than accident in the company's service, members of first class receive forty cents per day for fifty-two weeks, and twenty cents per day thereafter, other classes in proportion to their contribution.

For death from any cause, members of the first class receive \$250, and other classes in proportion to their contribution.

Surgical attendance is given free for any disability arising from accident in the discharge of duty.

The report of the Relief Department for the last fiscal year up to December 31, 1898, is an index of the success and importance of this work.

(1) The average monthly membership was 44,678. The report shows a constant increase each year since the beginning, the total membership December 31, 1898, being 45,141;

(2) The death rate was  $11\frac{1}{10}$  per 1,000 members;

(3) The average number of members disabled,  $32\frac{8}{10}$  per 1,000;

(4) Seven thousand seven hundred and fifty-nine new members joined, or 7,232 in excess of deaths (497) and withdrawals (30); 5,766 left the service, showing a net gain in membership of 1,466.

The Relief Fund account showed a balance of \$257,000, this being the first year of the fifth three-year period above referred to. The Relief Fund liability account to cover liabilities incurred for periods prior to 1898 amounted to \$261,000. The Relief Fund surplus account to be used for the Superannuation Fund was \$636,000, which sum is invested in 4 per cent. bonds.

The thirteen years' operation shows a sum paid from the Relief Fund to the employes of \$6,115,000, paid by the railroad companies for operating expenses and as special contributions, \$1,502,000, or a total expense for relief and operation of \$7,617,000 toward which the companies had contributed about twenty per cent. Of this amount sixty per cent. was used for the relief of disabilities through accident in the service or through sickness.

It is almost needless to state the advantages of such an administration upon any railroad system. That it is beneficial to the men is proven by its voluntary membership. That it is good business is shown by the further contributions which the Pennsylvania Railroad has authorized for the superannuation and pension department to be established January 1, 1900.

By agreement of the constituent companies, on December 18, 1899, the Pennsylvania Railroad has organized a pension department to take effect January 1st. It is organized

First—To relieve from duty all officers and employes seventy years of age or over and to provide for their care;

Second—To relieve from duty employes from sixty-

five to seventy years of age who have been in the service of the several companies for thirty years or longer and are now physically disqualified.

A board of officers is appointed by the railroad company to direct the affairs of the pension department.

Employees who are superannuated will receive a monthly allowance equal to one per centum of the average regular monthly pay for the ten years preceding retirement for each year of service. For example, if an employee averaged \$75 per month for ten years and had been in the service forty years, he would receive an allowance of \$30 per month, 40% of the average wage as stated.

It is provided, however, that whenever pensions paid on the above basis use more than \$300,000 per annum, the amount of the pensions will be ratably reduced.

Having referred to the associations of the employees and to the railroad relief departments, it is interesting to compare the advantages in cost and results of the two methods. Such a comparison is not made with any view of showing the advantage or disadvantage of either, as both kinds of insurance are beneficial; but it is important to show to what extent the railroads have voluntarily accepted the function which the men through their own organizations have found necessary for their aid. The important points of comparison are:

First: That the cost of insurance is approximately the same. As stated above, we have no statistics to compare the cost of relief.

Second: The railroads include relief features in their guaranty plan, whereas the associations of employees generally leave all questions of relief to their local divisions.

Third: The expense of management of the department is paid by the railroad companies, and in the case of the employees' associations by assessments.

Fourth: The financial status of any voluntary relief association must be dependent on voluntary membership, whereas the railroad company practically guarantees its risks, and in many cases pays considerable sums from its own treasury to maintain the stability of the department. This feature is of great importance to the employes.

Fifth: The employes' associations have, in a limited way, made provision for aged and infirm members, but it has remained for the railroad companies to establish the only thoroughly organized pension departments.

So far, I have referred only to the need of relief work for railway employes, and have outlined some of the methods of administration and the results of such work. There is, however, another vital question in railroad management which is affected by such Brotherhoods as are organized for "protective" purposes as well as for relief and benefit. This is the question of the general status of rates of wages and of the rules governing the employment of the army of railroad men in the United States. It will be my purpose only to point out for purposes of discussion here, how railroad management is affected in these particulars by such associations of employes.

If railroad transportation is a "Government Function" and "The Government must see that it is properly discharged," (Interstate Commerce Report, 1898); if, in short, the Government is to control the rates, this authority carries with it the responsibility of protecting the private capital invested in the railroad systems in such manner as will permit the railroads to give a proper service, to pay reasonable wages, to provide proper methods of relief for their employes and earn fair return upon their invested capital. There must be a limit to



the demand of public sentiment for high wages and low rates. In other words, protection must be afforded to the earning power if the public is to assume to pass upon the rate and wage question.

Some Brotherhood organizations have been organized from time to time for strictly relief and insurance purposes, but, generally speaking, the national associations are formed for the "general welfare" of the members and for the purpose of "protection" both in wages and in the rules governing employment. There are obviously three ways for railroads to meet the question of wages and conditions of employment.

First: To avoid any question by paying a "standard" wage under "standard" rules, and by administering the property in such manner as to render unnecessary any appeal from organized labor, or, if such appeal be made, to refuse to consider it.

Second: If unable from financial or other reasons to grant requests for increased wages, to confer with the representatives of the employes, whether selected by a labor organization or not, and to explain fairly to the class of labor involved the reasons for declining the request, thus recognizing organized labor.

Third: To decline to meet the official representatives of the class of labor desiring to be heard and to treat the subject as a private matter without regard to the standard of wages paid.

The last method is seldom adopted except by small roads.

In dealing with the railroad labor question, the large railway system should be the subject for discussion.

To maintain the first method of meeting the wage question, the great railroad systems of the present day,

in performing their government function, must so administer their property that the wages paid will be the standard railroad wage, the standard wage being the average wage paid by lines similarly situated, with similar traffic conditions. There is no standard wage for any class of railroad labor for the whole country. Any attempt to make a standard wage would prove futile. The difference in opportunity for steady work, the comfort of surroundings, the cost of living, the advantages offered by schools, churches, etc., in short the conditions controlling demand and supply, would make any absolute standard wage unfair to some roads. The railroads which treat labor questions under the first class may be said to recognize the responsibility to the public to furnish the best class of men at fair wages and to treat fairly and even generously with their employees direct. The labor organizations give indirect "protection" only to their members on railroads acting under this method.

*Second Class.*—A large number of railroads by reason of adverse traffic conditions, financial conditions, etc., are unable to pay even the standard wages in their section of the country. Generally speaking, such roads make a fair statement to the employes or to their representatives, and, with a fair spirit on both sides, a reasonable conclusion may be reached. The important element in this method of meeting the question is publicity. A statement to the employes and the public explaining fully the wages actually earned by the employes who make the request; analyses showing cost of living compared with other sections commanding higher wages; comparison of wages earned by railroad employes with the wages earned in other service (comparable with it) in the same locality;—in short, a

straightforward statement of the case is made with the expectation of meeting an honest response from the employes and from the public. This method puts the case squarely before the public as the jury, and the opinion of the public is oftentimes the controlling factor. This method may prove to be of the utmost importance in the future. The extreme prosperity of this country has permitted the railroads to pay the highest wages known in railroad service. With constantly decreasing rates forced upon the railroads by unbridled competition, the general problem of railroad wages may present itself. The operations of the enormous railroad systems of the future cannot be stopped by reason of wage discussions. In the last analysis the wage question must go to the public as the jury. Entire publicity alone can give the proper foundation for the settlement of any serious question affecting labor in public service;—publicity of the facts regardless of the questions of recognition or non-recognition of labor unions. The same spirit which now demands reasonable direction and control of industrial pursuits will demand reasonable protection of the public as well as of the employes in any wage question in public or quasi-public service. The service of the railroad employe will be recognized more and more as a public service.

Probably at no time in the past have there been such satisfactory relations as exist to-day between the railroads and their employes. At no time has there been such a high class of men in the railroad service, or such intelligent direction and control by the officers of railroad corporations. There is to-day a clearer understanding and recognition of the lines along which these problems must be worked out. The lines are fairly well defined, and if wisely followed, most of the questions

between corporations and employes should be solved without causing open friction. A well organized Relief and Beneficiary department of a railroad system is in itself an evidence of interest in the best welfare of the employes, and when well supported voluntarily by the employes, indicates on their part a cordial recognition of and co-operation with the management.

Such a mutual interest cannot be considered the least benefit from Railroad Relief and Beneficiary Departments.

Mr. ROBERT C. BROOKS first called attention to the fact that railroad relief and beneficiary associations divide employes into classes according to their ability to pay. Owing to the enormous diversity in risks presented by so heterogeneous a mass as railroad employes, this arrangement is inequitable. Employes running little risk of accident are obliged to pay as much for their insurance as others engaged in the most dangerous branches of service. Thus a telegraph operator must pay as much as a freight brakeman, although the first is exposed to extremely slight risks, while the latter fills one of the most dangerous positions in modern industry.

The inequity of this arrangement would, however, prove no objection to the system of railroad relief and beneficiary associations if all employes were left free choice in the matter of joining such associations. Those whose interests could be best subserved by joining the brotherhood relief societies or ordinary insurance companies could then do so. But even in the case of the railroad associations which call themselves voluntary so much pressure is often brought to bear upon the employes by the officials that it amounts practically to compulsion. It not infrequently is the case that men

applying for positions with the company are rejected if they refuse to join the relief association.

Philanthropic motives were without doubt partly influential in leading the companies to establish relief associations. Further, the companies cheerfully make up the deficits in the relief fund when the contributions of the men are not sufficient to pay all sick, accident or death benefits. But the companies reap a large advantage in this apparently altruistic transaction by being relieved from expensive litigation and payment of damages for injuries sustained by their men. Members of relief associations must, by the terms of their agreement, waive all claim upon insurance from the relief fund in case they bring suit for damages against the company. They are thus forced to choose between a certain small payment at a time of great distress or a sum uncertain in amount if they are successful after long litigation. Naturally they accept the former alternative in most cases. It is a fair question if the expense saved the companies in this way does not far outweigh all costs of maintaining the relief system. Statistics on this point have not as yet been given to the public by the companies. It is not to be denied that these facts give railroad relief associations a certain appearance of being shrewd schemes to make the office men in railroad service pay for the injuries sustained by the men in the more dangerous employments.

One decided disadvantage of railroad relief associations from the standpoint of the men is that in case of dismissal from the service they lose all claim upon insurance. Great injustice might occur through this provision. On the other side, it is not to be denied that some railroad employes use every effort to defraud the relief fund. This greatly increases the difficulty and

cost of the system of medical examination which the company must maintain. In the case of insurance afforded by the brotherhoods, every member of the organization is conscious of a community of interest, and acts as an examiner, thus effectually stopping such cases of shamming.

On the whole, Mr. Brooks was of the opinion that railroad relief departments were doing good work. They practically compel large numbers of men most of whom are employed under conditions of great danger, and yet are inclined to exercise little foresight in managing their affairs, to make some provision for the future. The claim that they are largely philanthropic institutions can, however, hardly be maintained until the many defects of the system are remedied.

## RAILWAY CHARTERS.

BY DR. B. H. MEYER.

The term railway charter, as used in this paper, embraces the enabling or permissive statutes under which the railways of the country do business. The charters granted in the various states before general railway incorporation laws had been enacted, were special laws relating exclusively to a particular enterprise. Railway companies organized under general laws secured what are variously known as articles of incorporation, articles of association, letters patent, etc., which are, in the old sense of the term, not charters at all. The earlier "charters" are acts of special legislation. The later "articles" are merely administrative acts based upon general laws.

With the exception of a few western states, in which general laws were passed at the very outset, the states began with special legislation and gradually drifted into general legislation. In many states the first general laws embodied all the salient features of the best special charters which had been previously granted in those states, while in a much smaller number the first general laws related to eminent domain, declarations of public utility, public aid, and kindred topics, leaving the chief provisions of the franchise to the special charter. The transition from special to general laws was usually extremely slow. In a large number of states this transition was encouraged by a system of abbreviating charters, the new charter containing only several sections relating to the organization, route, and other individual and local matters, with the provision

that the company thereby incorporated shall enjoy all the rights, privileges, and immunities previously granted to a certain other company. The logical outcome of this process was the enactment of a general law embodying the provisions of the charter by reference to which the newer charters had been abbreviated. However, the simple enactment of such a general law was not necessarily followed by incorporations under this law; for, again and again, special charters were granted—sometimes within a day or two—by the legislatures of a number of states, completely ignoring the general law. Of, perhaps, a score of railway companies authorized during the same session of the legislature, one-half might have organized under general, and the remainder under special laws. More than this. One of the great railway systems of the United States is to-day operated under a special charter, originally granted, twenty-five years before, for the construction of an insignificant local road which was never built, in spite of the fact that every state which this system crosses had at that time laws or constitutional provisions, or both, prohibiting the granting of special charters for railway purposes. In itself this may have been neither bad nor good, yet we are confronted by the fact that the spirit, if not also the letter, of the laws of these states was shrewdly evaded by the railway company in question.

The history of railway charters in the different states has been quite similar. Few, if any, states appear to have profited by the earlier experiences of sister states, but each in turn lived through all the successive stages of railway civilization from the stone-age up—or up to the stone-age, if, as has been asserted, this term characterizes the status of present railway legislation. Each



state—excepting a few of those in the west—had its crops of railway charters; and as the promoters moved westward from the Atlantic towards the Pacific, the charters were generally more loosely constructed through the omission of the more detailed, explicit, and often restrictive sections. Not a few charters were granted containing only from four to a dozen sections, while the best eastern charters contain from twenty or twenty-five to forty or more. If the states of the Northwest, for instance, had heeded the lessons of New York or Massachusetts, it is probable that the railway history of this country would have been different from what it is in many respects. In recent times, Japan in her railway legislation, has given us an illustration of what one state may learn from other states or countries. This suggests the splendid English custom, for illustrations of which we may turn to the railway laws of India, Canada, and the Australian Colonies, of carefully defining in the act itself the terms employed therein. American charters and general laws are full of terms which require definition in order to be understood. Instances could be cited where charters specify judicial or other officers for the performance of certain duties, which have neither legal nor constitutional existence in the state which granted the charters. This is only one of the many ways in which the greatest carelessness in the passing of railway charters by our legislatures is revealed. Yet, it would be rash to conclude that carelessness in granting charters necessarily resulted in the construction and operation of inferior railways, or in abuses characteristic of the business; although it is difficult to see why charters granted by the same legislature during the same week, for similar railways should contain widely diverse or antagonistic clauses.

An analysis of the contents of railway charters of the various states shows substantial uniformity in corporate powers, provisions relating to expropriation and to the size of shares, and certain police regulations. But here uniformity usually ceases. Of course, differences due to differences in the enterprises themselves ought to exist in the charters and laws, but it is one of the striking features of our railway history that both special and general laws may vary widely even though they apply to railways constructed and operated under essentially similar if not identical conditions. In the charters, the number of commissioners and directors appears to be fixed by chance. With few exceptions, the capital stock bears no relation to the size of the undertaking. The power to borrow money and to increase stock is usually guarded only in the vaguest and most general terms. The name of the company frequently contains the best available description of the route. Junctions, branches, and extensions are rarely well provided for. Provisions on rates are contained in only a small proportion of the earlier charters and generally wanting in those of later periods. Annual reports embracing from eight to one hundred and fifty or more items are prescribed, without adequate provisions for carrying out the intention of the law. With illustrations of this kind one might continue almost indefinitely. To present what the charters do not contain and wherein they differ would involve the writing of a treatise on railway legislation.

An analysis of our general laws reveals a similar state of affairs. We find there omissions, differences, inconsistencies essentially identical with those in the charters. The laws of a few of the states are relatively complete. The laws of others contain numerous admirable provisions. *But it is probably true that the laws of all the*

*states taken collectively do not contain all the provisions essential for a complete railway law of to-day.* In three-fourths of the states reports are called for which ought to furnish information sufficient for intelligent control; yet, who, by the terms of the charter, has power to verify these reports? Charters and laws require crossings to be left in good condition. During the earlier epochs, charters designated no one with power to enforce compliance with this provision, nor do the later charters generally do so. The commission laws have, however, in some instances, remedied this defect. Here and there provisions relating to sinking-funds and other wholesome financial arrangements appear in the charters, but their execution is left to the good will of the promoters. And when we recall that the same men frequently figured in a number of different projects involving, perhaps, millions of dollars, although the public had no assurance that these men could pay even their tailors promptly, the defects of such charters and laws are apparent.

It will add to whatever value this bird's-eye view of railway charters may possess, to consider a few of the chief characteristics of foreign railway charters. Inasmuch as charters and laws of more than a dozen countries reflect prominent features of foreign legislation, we may venture the statement that railway charters the world over have been constructed on the same plan. Their skeletons are everywhere alike. Taking their earliest shape in the turnpike and canal legislation of England before the era of railways had come, their first forms were generally preserved in both European and American states as well as in Japan. Various archaic features contained in the charters of to-day amply support this statement. One of the commonest and best

known among these survivals is the reservation, in so many charters of our states and of foreign countries, relating to the use of the railway track by different and, perhaps, competing transporters. A few American charters distinguish between "toll" and "transportation," charging, say, two cents for toll and three cents for transportation going from north to south, and two cents for toll and one cent for transportation going from south to north. The published legal schedules of France, to-day, separate the "right of toll" from the "price of transportation," so that a shipper who pays, say, a total of five francs freight charges, meets in that single payment two charges separately listed in the schedule, but practically constituting a single charge. The *droit de péage* represents the returns to the capital employed in construction and maintenance, while the *prix de transport* represents the remuneration of the rolling stock. This distinction in French law is theoretical, of course, and not observed by the public. Were several transporters to use the same track, it would doubtless have practical significance. The declaration of public utility, legally required in the early laws of a number of our states before a charter could be granted, is also retained in the French railway code of the present time. A considerable number of the earlier American charters contained preambles, a custom initiated in England and preserved both in its original and modified forms in other countries. The downfall, in America, of the custom of embodying a preamble in a railway charter removed the last vestige of restraint and was contemporaneous with the indiscriminate granting of charters by our legislatures. The preamble usually set forth the reasons why the project under consideration should be promoted, and upon the validity of the statements made in

the same, the charter was granted. The protracted parliamentary debates on the Liverpool-Manchester railway bill, centered about the preamble. In only a few of our states does the law require deliberations and hearings of a preliminary nature before a full charter is granted. In this lies one of the most serious defects of American railway charters, absence of provisions to guard against the chartering and construction of useless and harmful railways, which has repeatedly been discussed by men interested in railway affairs in all parts of the country. Something more comprehensive is needed than a bare provision prohibiting the building of parallel or competing lines—ridiculously defined in a number of charters and laws—within a specified term of years, found in many charters and nearly all the general laws of the states. Is it not possible that the practices prevailing in many foreign countries, requiring certain preliminary proceedings before a complete charter can be granted, may be of value to us? Japan seems to have embodied the results of foreign experience in a recent law with such elaboration as to deserve a moment's attention. According to Japanese law the railway franchise is separated into three distinct parts, the first of which may be completely separated from the two following. These three parts can be indicated by the terms preliminary, construction and operating charters. The preliminary charter is granted on the basis of a certain estimate which the franchise seekers must submit to the public authorities. It authorizes the projectors to make the necessary surveys and detailed estimates of costs upon the approval of which a permanent charter may be granted. After the road has been constructed, equipped, and duly inspected, an operating or business charter completes the granting of the fran-

chise. Without attempting to pass final judgment upon the Japanese scheme, is it not possible that the principles underlying the same may have some value for us? It would probably do away with much of the secrecy and underhanded work which so often accompanies the granting of charters in this country. Every step could in this manner be made public. The choice of a route, the character of the road, and the concessions made to the state could be thrown open to competitive companies, and a permanent charter granted to that organization which should offer to the public authorities the most advantageous conditions; and so on.

The preliminary charter under such or a similar system would take the place of that section of the old charters which empowers the company to enter upon lands for the purpose of making surveys and estimates. An indefinite number of competing persons and companies might secure this privilege, although in case of mere extensions of existing lines the situation would probably in many cases exclude all companies except the one in possession of the field. But there are many sections of our country in which the network of railways is still so far from complete that a better system of granting charters may be of great service in the future. The preliminary charter would accomplish much more than the old preambles could ever effect, because of the complete separation of the preliminary from the permanent grant of the franchise, which under the old system were accepted or rejected together. Before the construction charter could be issued, the public authorities would be in possession of one or more estimates of costs and probable income from traffic, together with the obligations which the respective companies are willing to

undertake in behalf of the state. There could be no blind play with respect to the route, for this would have to be described mile for mile from one terminus to the other. Complete maps and profiles would be publicly exhibited, and all the interests affected given an opportunity to be heard. Existing railways would be protected because no permanent charter could be granted until the usefulness of the projected road had been demonstrated, and its influence upon existing industries carefully considered. Having before them accurate estimates of costs, the amount of the capital stock could be intelligently fixed by both company and the public authorities. The hasty and feverish manner in which charters have so often been granted in the past could no longer prevail, to the incalculable benefit of both the railways and the public. The permanent charter would finally prescribe the organization of the company, route, amount of capital stock, and other individual and local matters which cannot prudently be incorporated in a uniform general law which, together with the special charter, would constitute the complete railway franchise.

Hand in hand with the suggested revision of our railway charters and the enactment of uniform general laws, must go a thorough recasting and unification of our present, almost indescribably chaotic, commission laws; if, indeed, these have not already been included in what has been said with respect to general railway laws. The writer does not forget that some of our laws, those of Massachusetts and of several other states, for instance, have already reached a high level of advancement, and if the railway legislation of all our states—especially that relating to the granting of charters—could be brought up to the Massachusetts level, a long step forward would have been taken; but if any one doubts the

justification of so emphatic an expression as "indescribably chaotic" let him spread out before his eyes a comparative exhibit of these laws and all uncertainty will be removed.

Another feature of foreign charters is the recognition, in railways, of different degrees of importance to the public, and an acknowledgement of these differences in the provisions of the charters and in the laws applying to them. Taking the general laws and charters of the United States as a whole, it may be asserted that the law places relatively unimportant local railways on the same footing with those which are most important. The charter of a trunk line may be an exact duplicate of that under which a line connecting several villages is operated. It is needless to add that a few exceptions, such as provisions relating to taxation, must be made. France, Italy, Switzerland, the countries of Germany, and England even, recognize in charters and laws a rational classification of railways based upon their relative degrees of importance. Would it not be profitable for American law-makers to consider the advisability of adopting one type of charters for local (perhaps intra-state) railways, and another type for those which go beyond the limits of one state? Would not a clearly defined division of functions in this respect between the federal and state governments lead to beneficial results? Could not the much needed uniformity among the several states be encouraged in some such way as this? Why should not a railway be authorized to do business under a local charter until it becomes a part of a greater system, and then cause it to comply with the provisions of a federal charter? The Interstate Commerce Law seems to suggest such a line of action.



The present lack of uniformity in both charters and general laws of the various states must be irritating and exasperating to those railways which make an attempt to comply with their provisions. What man of sound mind would expect to maintain his health and bodily vigor if he were to subject different parts of his body to different and opposite methods of treatment at the same time? Yet this is exactly what has been done and is being done to our railways through our checkered and many colored charters and laws. To those who believe that the time may come when public ownership will be a question of the day, this lack of uniformity and harmony in charters and laws has great practical significance, for it is difficult to see how an elaborate practical program can even be made out, not to speak of its execution, before substantial uniformity has been brought about. Our national and state commissions, both individually and in convention, have repeatedly emphasized the urgent need of uniformity in accounts, only the beginning traces of which are found in the charters and laws of several states. However, it is possible that practice has outstripped law in this respect, and that greater uniformity exists than is indicated in an analysis of legislation, special and general.

Another feature which obtrudes itself upon one's attention in an analysis of railway charters and laws, and which is largely the result of the chaotic condition of legislative enactments, is the lack of adequate administrative machinery. What if a charter *is* good? What if the general incorporation laws *are* strong? Who has the efficient power necessary to enforce compliance on part of the one against the ninety and nine railways that, perchance, would voluntarily meet all reasonable

requirements? It is said that in railway affairs the weakest may rule the strongest. One looks in vain for charter provisions which will make this impossible. It seems that legislators were loath to place discretionary powers in the hands of administrators, and as a result we have that long list of hard and rigid provisions relating to long and short hauls, pools, consolidations, rates, etc. In addition, we find similar provisions more or less comprehensive in their scope in the constitutions of three-fourths of the states, while in a few states the constitution contains practically all the railway legislation there is. Considering the nature of the railway business on the one hand, and the difficulty of amending constitutions on the other, is not the embodiment of railway clauses, beyond a few simple and general principles, in our state constitutions of doubtful utility? This lack of elasticity is a serious defect in our charters and laws, and is, perhaps, partly if not entirely the result of inadequate administrative machinery in which proper adaptive elements might have been incorporated.

Another lesson which foreign charters and laws may teach us lies in the protection of public interests and the representation of social and economic interests in the conduct of railways. With the exception of England, all the leading foreign countries provide ways and means by which every industry, trade, or profession may regularly exert influence in its own behalf. Prussia, Switzerland, and Japan provide for a system of advisory councils by law, and other countries have established similar representative organs through the agency of administrative orders. The existence of such councils in this country, reflecting the opinions and interests of all classes, would probably do much to overcome

that feeling of helplessness on part of an aggrieved public which one is likely to feel in a study of American railway charters. Both the railways and the public would be the gainers, because each would thus learn to understand the other through regularly constituted channels.

This paper does not primarily concern itself with the actual workings of the charters and laws, upon the analysis of which the generalizations here advanced rest. Given identical laws in different states and countries but different administrative bodies and methods, the practical effects may vary widely. French courts, for instance, have declared a crated plow baggage, and have absolved several merchants, who had been caught in a slight wreck and who had ordered a special train in order to reach on time a fair for which they were bound, from payment for this train. In the United States, courts refuse even the statements of facts made by our commissions. It is clear that the same laws in France and in the United States might bring about varying results.

The concluding paragraph of this paper may well be devoted to expressions of opinion of railway officials formulated in letters written by them. Communications received from over one hundred, relating to railway charters, show practical unanimity in the demand for uniformity. A tabulated analysis of railway charters and laws shows at a glance the utter lack of agreement among them, and it is a matter of satisfaction to be able to bring to the support of a student's conclusions the combined authority of leading railway men. One official suggests that the federal government grant charters, and that all applications for charters be referred to a non-political commission for examination.

Another asserts that stability and highest efficiency can never be obtained until all the great railways of the country have been placed under substantially a single organization, guided by one broad, general policy. Then, he thinks, discriminations and kindred evils will cease to be a necessity of the situation. Several emphasize the necessity of re-organizing railways under uniform general laws and of expressing all the provisions of the franchise clearly, and making them equally binding upon the companies and the public. Every point of importance should be fixed in the charter, and minimum as well as maximum rates should be established. Others emphasize the importance of prescribing by law all the physical conditions of a railway, and many deprecate the absence of legal provisions against the construction of railways for purposes of blackmail and speculation. A few point out the absence of statutes making legal and constitutional provisions effective. In short, aside from isolated cases, no opinions were expressed and no lines of action indicated by the railway men who touched upon the subject at all in their letters, which are not in substantial harmony with the conclusions suggested by an independent, objective analysis of existing railway charters and general laws.

## DIFFICULTIES IN ADJUSTING RATES.

BY PROFESSOR HENRY C. ADAMS.

[The paper read by Professor Adams, which is inserted in these Proceedings under the above title, was a portion of a paper entitled "The Outlook for Federal Railway Legislation." After passing in rapid review three possible lines for the development of railway legislation, each of which received extended consideration, certain points were suggested as necessarily included in any bill which should aim to legalize railway pools. It should not be understood that a statement of these points commits the author to the general policy of railway pooling. The portion of the paper read was as follows:]

It would be no light task to draft a bill for the legalization of railway pools and it is not my purpose in what follows to attempt so ambitious a task. There are, however, a few points respecting which no serious controversy is possible and it may add to our appreciation of what lies in the program of legalized pooling if we refer very rapidly to some of these points.

First.—The first question which presents itself pertains to the scope of the pool. Shall it cover all traffic or apply to competitive traffic only? Upon this point the natural answer is that the pool should confine itself to those classes of freight which experience proves to have caused the disturbance in railway rates. It would not seem wise, at the outset at least, to undertake the establishment of a centralized system of railway administration covering all classes of freight, even though this establishment should be placed under governmental supervision. Should Congress be disinclined to assume the responsibility of enumerating the different kinds of freight that might be pooled, no harm would arise should the law express itself in the form of a general permission, for it is not likely that the carriers would

avail themselves of the right to pool except in the case of those classes of freight likely to be carried at cut rates. The point is this: a pooling law should not undertake the establishment of a new system; it should rather confine itself to the correction of abuses in the existing system. The only objection to this conclusion would come from those who are interested in local rather than through traffic and who fear that the former would be burdened with high charges for the support of through traffic. It is doubtful, however, if this is the manner in which the adjustment of competitive traffic through pools would operate. Should this prove to be the case it would furnish a reason for new legislation.

Second.—The agreements between the railways which by the contemplated law are to become legal contracts, should, in the second place, be published before going into effect and should be drawn according to a form prescribed by the law itself. This agreement should state the class of freight to which it applies, the rate established, the percentage of business assigned to each member of the pool, indeed, all the essential points agreed upon. The advantage of a definite form of contract is in part the general advantage that always arises from uniformity of procedure, but there is in addition to this a very particular and imperative need of a prescribed form of agreement. Should pools be legalized, care should be taken lest the agreement cover so many points as to obstruct the development of the service. An agreement, for example, that a road should not use improved equipment, or that it should not carry freight more rapidly than at a specified rate of speed, or indeed any agreement by which one road is handicapped in its competition for service with an in-

ferior road, would be against the public interest. It is claimed by advocates of pooling that competition through improvement of the service continues notwithstanding the existence of the pool, and it should be the aim of Congress in drafting a pooling law to guarantee the continuance of such competition. This it can do most effectively by enacting the form of the pooling contract.

Third.—Not only should the form of the contract be provided by law, but the period during which a pool is to continue should be determined in the same manner. The necessity of this lies in the very nature of the argument urged in favor of pools. Their only defence is that by means of them stable industrial conditions may be established. Under the present law the extreme limit which a shipper can calculate upon is three days. Nothing could be more detrimental to the satisfactory progress of industries or more embarrassing to the principle of competition in its effort to work justice between minor industries. A year at least, as is generally the case in European countries, ought to be guaranteed a legalized rate, and it should be noted that most of the considerations urged by railway attorneys against so extended a time would be set aside by the fact that the rate is legalized.

Fourth.—Another point which the law for the legalization of pools must decide pertains to the making of a rate. Proceeding upon the assumption that the carriers should not be deprived of their initiative in the matter of railway charges, the question yet remains whether their decision should be final, or whether the approval of the Inter-State Commerce Commission should be required before the rates are put in force. This is a question which has been greatly discussed and upon which it is not possible to say that there is any very clearly

defined opinion. If the writer may be permitted to express his opinion upon this question, the approval of some body whose duty it is to inquire into the inherent utility and justice of the proposed charges should be made a necessary step in the legislation of a schedule of rates. One of the chief evils of the present situation is that railways are not operated as a system. The relation of the industry of transportation to the life and development of the nation is never consciously present to the minds of railway managers in their decision of specific questions. It is true that the competitive struggle for traffic has done much in the past to direct these decisions along the line of public interest, but the public interest has never been accepted as a permanent consideration, much less a controlling influence, in the administration of railway property. Now it is proposed to exempt competitive traffic from the influence of a competition, so far at least as price of service is concerned. The power of government is invoked to make a monopoly of a certain class of traffic. Competing lines are to be consolidated into a system. The result would be same as though Congress should charter a new corporation for the management of all competitive business within prescribed territories. Under such considerations is it not reasonable for government to reserve to itself the right to veto any proposed contract which for any reason is not in harmony with the highest interests in the state? Many questions would present themselves to a body standing for the public interest, when contemplating a proposed schedule of charges, that would not be considered by men who regard property merely as an investment. If the government is going into partnership with the railways by lending to the carriers the use of its sovereign power of monopoly, it ought at least to have a seat on the Board of Direction.



Fifth.—The accounts of railways, parties to a pooling agreement, should be consolidated, so far as they pertain to competitive or pooled traffic and the Interstate Commerce Commission should be authorized to prescribe the rules of such accounting. Accounts are records of transactions and there is no possibility of controlling transactions except through access to accounts. The object of pooling, it must be remembered, is to secure stability of rates, and, even though pooling be legalized, it is not certain that parties to the agreement will maintain the rates. It is true that they who break the contract incur the risk of civil suit, but the immediate gain may be great while the penalty may be uncertain. The conclusion is evident that in order to secure stable rates, under pools, it is not only necessary to authorize a pooling agreement between the carriers, but some means must be provided by which a fracture of agreement becomes immediately known to all parties concerned, and for the attainment of this end there is no means other than the creation of common accounts for all pooled traffic. The law which establishes pooling, therefore should oblige the roads who avail themselves of its advantages, to create an outside accounting agency recognized as the representative of all but dependent upon none; and such is the nature of the public interest in this agreement that the government ought to establish uniformity in the organization and administration of these bureaus and publicity of the accounts kept by them.

Doubtless other points would arise should Congress ever seriously enter upon the discussion of the legalization of railway pools, but these mentioned are at least adequate to suggest the line along which railway legislation would be likely to develop under the influence of the pooling idea.

## THE LABEL OF THE CONSUMERS LEAGUE.

BY MR. JOHN GRAHAM BROOKS.



The trade union label gave the first hint of the Consumers' Label. This device of the labor organizations is purely of American origin. It appears first in 1874. It has spread to Canada, and, in the single instance of the hatters, has, I believe, gained some footing in England. The chief reason for its adoption in this country lies doubtless in the intenser and more embarrassing forms of competition under which our labor unions suffer. The constant pressure through immigration of a great multitude of half-skilled laborers representing lower standards of life, and at the same time introducing race antagonism has driven the American trade union to catch at every weapon for its defense. The label is one of these weapons. Its first appearance was in California during the "sand lot" agitation against the Chinese. In 1868 some eleven thousand Chinese landed on the Pacific coast. In 1872 a San Francisco firm of cigar makers took on a number of Chinese laborers. The number which came into direct competition with the work of any trade union was relatively slight, but, as with the product of prison labor, it was felt to be of great importance. Against the rat-shop, cooly-made cigars of California, the cigar makers first struck.

But how should a sympathizing public know which were rat-shop and cooly-made cigars, and which the product of "American labor with its superior standard?" To meet this practical difficulty a label was adopted, not the blue label in present use, but a white one, to show the buyer that he was patronizing white labor. It was thus against the competition of a low-class unorganized labor that this weapon of the label was first directed. Its appeal was to the smoker: "Buy no cigars except from the box marked with the trade union label. Thus you help to maintain the white standard as against the cooley standard of life." At the Chicago Convention of 1880 new stress was laid upon the fact that the unions were suffering, not only from Chinese labor, but from prison and tenement-house competition. The extraordinary success of the label among the cigar makers raised the question of its adoption with other unions in 1883 and 1884. The powerful organization of the hatters introduced it in 1885. In the ready-made clothing industry the label appears in 1886. From 1891 the label was taken up by printers, bakers, wood workers, harness makers, iron molders, broom makers, coopers, photographers, shoemakers, custom tailors, mattress makers, horse-shoers, brewers, egg inspectors, and barbers (who display their label in the window). Labels are found even upon coal carts, indicating that union men only are employed in distributing coal.

Among the cigar makers, hatters, and printers the label is an influence of very considerable importance. The label of the printers, for example (adopted November, 1891), is in use in more than 200 cities in the United States and Canada.

Laws protecting the cigar makers' label have been adopted in at least twenty-eight states and territories.

That it has become a force is proved conclusively by the constant attempts to counterfeit it. The cost for protecting the label against these counterfeits has risen as high as eight thousand dollars in a year.

Two years ago in the Bulletin of the Department of Labor (3:215), a writer made the following statement:

"In trades like that of the garment makers, a label that should be confidently known to stand for definite improvement in the life of the worker, would attract a powerful public sympathy. There are many indications at hand that a growing public interest will soon demand from some source—from manufacturers, storekeepers, voluntary associations like the Consumers' League, or from trade unions—a label that shall be an absolute guarantee that the goods upon which it is placed are not made in sweat shops. Every increased effort of the unions to have their label a sure symbol of higher standards of life and work among the wage earners is certain to command more cordial and more helpful recognition from the general purchaser."

From the beginning the hope was cordially entertained that the Consumers' League could adopt as its own the label of the trade union. Practical reasons which could not possibly be overcome, alone prevented this. Investigation showed early that almost nothing bearing the trade union label was in the least likely to be worn by the people who made up the Consumers' League. It was almost exclusively a woman's movement and the whole body of what is known as "white goods," large portions of which are made in sweat shops, had no trade union label upon them. To have demanded the trade union label on these goods would force the Consumers' League to insist that every manufacturer of these products should forthwith unionize his shops. This would have killed the movement at the start. If we had been buying cigars we could have taken that label; if we had been buying hats or doing printing, we could have called for those labels. Our

League has indeed conscientiously ordered its printing from union shops, but upon the wide variety of products, where our first steps had to be taken, there was no alternative but to have a label of our own. Yet for nothing have we striven harder than that our movement should not antagonize at a single point the earlier label. The first form of the Consumers' League began in New York city in 1890 and 1891, through the efforts of Mrs. Lowell and Mrs. Nathan. Its purpose was to correct certain obvious evils in the retail stores. They selected two stores in which the treatment of the employes seemed to them more than usually humane, and, setting forth the good points of those stores, they wrote to fourteen hundred store-keepers on Manhattan Island enquiring whether they wished to arrange the work in their stores in conformity with the better standard, and have their establishments included in a proposed 'white list.' Out of fourteen hundred only *two* responded favorably, and from this modest beginning has grown the present 'white list' of the Consumers' League of New York city embracing nearly forty leading stores.

The real evils of the sweating system are, however, not at the stores but where the goods are made. The aim of the National League, started last year, is to use the retail store merely as an agent through which the manufacturing processes can be reached. The National League deals, therefore, directly with the factory. This explains the necessity of our label. Such a device must be affixed at points to which the most definite tests can be applied. The label could not be given to the retail stores, as no man in it from the manager down knows where all his goods are made. This is possible at the factory. Through the agency of the local factory inspectors and the trained inspector of the Consumers'

League it can be easily determined where and under what conditions the clothing is made. These facts are first ascertained, and if our conditions are met, an opportunity is given for that manufacturer to use the label.<sup>1</sup> Our contract stipulates :

1. That all provisions of the State factory law are to be complied with ;

2. That the label is to be used only on goods manufactured by said manufacturer on said premises ;

3. That no child under the age of sixteen years shall be employed or permitted or suffered to work on such premises ;

4. That no person shall be employed, or suffered or permitted to work in said factory longer than ten hours in any one day or sixty hours in any one week ; or after nine o'clock at night, or before six o'clock in the morning, excepting only the night watchman ;

Also to allow the duly accredited representatives of said League to inspect said factory at any and all reasonable times, and to comply with all reasonable requests made by said League for improving conditions ; otherwise to discontinue the use of the label forthwith, and for failure to comply with this demand the manufacturer to pay as liquidated damages to said League the sum of one hundred dollars.

The following statement concerning the label has been sent out to a large number of manufacturers.

"The National Consumers' League, a federation of local leagues established in New York, Massachusetts, Pennsylvania, and Illinois, is organized for the purpose of promoting intelligent and effective co-operation among purchasers in demanding goods made under right conditions in preference to the sweatshop product.

The National Consumers' League grants the use of its label to manufacturers who furnish working con-

<sup>1</sup> The label was registered Nov. 17th, 1898, at the State House, in Boston. The registration consists in filing a certificate with the Secretary of State. This certificate contains a copy of the label and, also, a description of it in written words, also, the date at which the label was adopted by the League and our statement as to the purpose and constituent parts of the National League.

A different certificate is in our possession, sent from the Secretary of State of Massachusetts, setting forth the fact of the registration.

This method was adopted on the recommendation of our lawyer.

ditions in compliance with the requirements of its standard, and urges upon purchasers the advantages attaching to goods that carry its label.

The manufacturer derives advantage from the use of the Consumers' Label, through the patronage of an organized body of enlightened customers; and through wide and persistent advertising without expense to himself.

The purchasing public derives from the use of the Label the assurance that goods so endorsed have been found to be made in clean and wholesome factories, free from contagion and vermin, and under the best conditions known in the trade at the time."

Through the agency of the press, lectures, leaflet literature, by the help of women's clubs, college settlements, etc., pressure is then put upon the public to ask at the retail store for those goods that bear the Consumers' Label. If the demand is considerable enough and persistent enough, the manufacturer will find it for his economic advantage to make his product on his own premises. The retail store will find the same advantage in insisting that their buyers avoid the sweat shop product. The public never yet has had a chance to know where and how its garments were made. The label is an instrument to make such knowledge possible. The label is registered and a definite contract entered into between the League and the manufacturer desiring to use it. Several manufacturers have already adopted it and several retail stores in Boston and New York have already ordered labelled goods.

Two years of very hard work have been given to getting the label upon the market. The form of its registration was full of perplexities. The form of the contract between the manufacturer and the League was

even more difficult. Even now the practical use of the label, if there is considerable call for it, will excite antagonism from the large department stores which do a portion of their own manufacturing in admirable factories. "Why," they ask us, "should we not have the label upon those things which are made in our own model workshop?" The very formidable objection is that such product would be dumped in the store with tons of sweat shop goods. The League has no means at its disposal to distinguish between these two products when once they are thrown together. Without impeaching the good faith of manager or clerk, the most obvious practical difficulties in keeping the factory goods apart from the "sweated" goods would rob the label of its chief value. The one fatal weakness of the trade union label, in the garment trade, has been of this character—that it did not stand clearly enough for the thing it claimed to represent. Unless our label can offer absolute assurance that it does not appear on sweated garments, its value is gone. Thus, at the risk of slower success and occasional hostilities, it will prove, we believe, a wiser policy in the end to guard the label from this grave risk.

Manufacturers at the great centre of this garment business, in and about New York City, have proved to be extremely sensitive about having the public know their relations to the sweat shop. No factory inspector has a better record for fearless investigation than the secretary of the National League, Mrs. Florence Kelley. Yet she finds it impossible to get from the New York inspectors the actual lists of places to which the manufacturers send their garments to be made up.<sup>1</sup> There is

<sup>1</sup> The law required in 1893 that the manufacturer must keep a list of addresses to which garments are sent to be made up. [Chapter 173 of Laws of 1893, amending Chapter 409 of Laws of 1886.] This was



some influence here powerful enough to determine the action even of inspectors that are supposed to represent distinctively "labor interests." This suggests what we have clearly conceived from the start, that the law must eventually deal with the sweatshops. Meantime it is believed that the League can render effective service in creating the public opinion necessary to make such law and its enforcement possible.

All that is essential to the principle upon which the League rests, has already wide practical recognition. Not only have important bodies—governments, cities, London School Board—come to recognize the principle, but where the discussion has gone on long enough, as in England, we find the idea put to practice on a scale that constantly widens in its scope. It does not take the form of leagues in England, but works chiefly through the co-operative movement. The Women's Guild, with its 12,000 members, is constantly teaching the relation between right buying and right conditions of labor.

Professor Gide's active interest in co-operation in France is closely bound up with his hope of teaching and realizing the consumer's duty in this way. He says: "Our very object as co-operators is to make a way for the doing of our duty as consumers. We deplore the fact that the buyer now exercises his power clumsily, ignorantly or with cowardice. This initiative of the

amended later to be a *complete* list in *English*, and still later it was amended again to be furnished in a *correct* copy to the inspector on demand. [Chapter 181 of Laws of 1899.] The National Consumers' League has been trying to have these lists gathered by the New York inspectors and treated as public records. This is not yet done in any effective or systematic way in New York. (It has been admirably done in Massachusetts for years.) The Label cannot be registered as a trade mark at Washington. We have, also, a written opinion of the Attorney General of New York State to the effect that we cannot register the label in New York; but that it is protected under the common law.

consumer is a fact of the first importance (*un fait du premier ordre*) to which we have often called and shall continue to call the public attention." The fact that co-operation has hardly begun among us leaves no alternative but to organize public opinion through voluntary groups for the purpose of arousing attention to the new duties, and making it worth while for the stores to meet the demand with heartiness and sincerity.

The Canadian Prime Minister Laurier said in 1897: "I do not want to see that system of white slavery (sweating) prevail in Canada." "If we have a duty to perform it is that we should make an effort to stamp out that sweating system in our own country." "The Postmaster General has taken the initiative in that respect and with the sanction of the Government, he has decided that in every contract given by the Post Office Department there shall be a provision which shall make it impossible for that contract to be farmed out," etc. In the United States, public opinion is so little developed upon this point that vast quantities of army clothing are reported from investigators to have gone straight to sweat shops.

The question seems a fair one. Is it more cranky for voluntary associations to attempt the enforcement of such a principle than for governments or municipalities? Any generalized practical recognition of the consumers' duty must in its very nature take on voluntary as well as legal form. That the life of those who make our garments should be at least as tolerable as it is in the better type of factory is a very modest aim. It is believed, if the Label rigorously stand for this better working life, the increasing demand for the label at the retail store will assure such economic advantage to the improved standard as steadily to extend its influence.

## THE PLANS FOR THE TWELFTH CENSUS.

BY WALTER F. WILLCOX.

The "Act to provide for taking the Twelfth and Subsequent Censuses" was passed March 3, 1899, the last day on which it was practicable to pass such an act, and the anniversary of the day on which ten and twenty years before the laws providing for the Eleventh and Tenth Censuses had been enacted. This Association, in common with other bodies interested in census work and with various committees of Congress, had made efforts to secure legislation on the census at an earlier date and thus to allow an adequate time for preparatory work. These efforts were not baffled by Congressional inertia or indifference, for in no previous decade has Congress displayed so much intelligent interest in the census, but the various bills urged by successive census committees perished in a fierce struggle for existence against the enormous amount of other business.

The law when passed, however, was a great improvement upon its predecessors and deserves to be ranked as one of the four main census acts in our legislative history, the others being those of 1790, 1850, and 1879. A brief statement of the main innovations introduced by the law is necessary to an understanding of the plans for its execution.

Between 1790 and 1870 inclusive the Federal Census was taken by United States Marshals. They reported in 1790 directly to the President, but from 1800 to 1840 inclusive to the Secretary of State. In 1849 the Department of the Interior was created and the supervisory powers exercised by the Secretary of State over the

Census were transferred to the new Department. By 1879 it had become necessary to create by law a new office in the Interior Department called the Census Office with a Superintendent at the head. The Superintendent, however, was strictly subordinate to the Secretary of the Interior. All appointments and removals in the Census Office were made not by the Superintendent but by the Secretary of the Interior. In an office where work must be done under high pressure, and where it is often quite as necessary that decisions should be made quickly as that they should be made wisely, such a dependence on the head of a department burdened with other duties entailed injurious delays. The new law makes the connection between the Census Office and the Interior Department far less intimate than heretofore. The head of the Census Office appoints all but one of his subordinates and that one is appointed by the President. By the terms of the laws of 1879 and 1889 it was the duty of the Superintendent "under the direction of the head of the Department to superintend and direct the taking of the . . . . Census." By the terms of the law of 1899 it is the duty of the immediate head of the Census Office "to superintend and direct the taking of the Twelfth Census" and the words "under the direction of the head of the Department" no longer occur. It was, therefore, more than a verbal change when the title of the head of the Census Office was made no longer Superintendent but Director.<sup>1</sup>

<sup>1</sup> "It will thus be seen that, so far as the direct language of the act is concerned, the operations of the Director of the Census and his subordinates are in no respect made subject to the supervision, approval, control, direction or modification of the Secretary of the Interior. He is not authorized or directed to approve the selection of appointees and employees, nor to approve the plans formulated for the taking of

Under the law of 1889 there were no officers occupied with statistical work between the Superintendent and the chiefs of division. The former oppressed by multifarious duties was compelled to leave the management of each division largely in the hands of its chief, and there are obvious difficulties to getting a man on short notice, competent and trained to direct and organize the field and office work of hundreds of employees, willing to take a temporary position, and ready to accept a salary of only two thousand dollars. Under the circumstances one is surprised that the average ability of the chiefs of division at the Eleventh Census was so high. By the present law two grades are introduced between the Director and the chief of division. The chief of division becomes the administrator and manager of the division under the chief statistician, and by relieving his superior officer of many details leaves him with more time to plan and organize his work. The Assistant Director supervises and co-ordinates the statistical work of the several divisions in the effort to distribute the resources of the office wisely, and to improve the plans of each division by constructive criticism, and by bringing them into harmony with the entire plan. The wisest relation of the parts is a matter of constant adjustment in an office so new and unfettered by precedents, but it is already clear that the new law permits and encourages a much greater unity of plan than has heretofore been possible.

Probably the most momentous change introduced by the census, nor to approve contracts for supplies, rental of quarters, etc. Not being specifically directed by the act to perform such supervision, the question arises as to whether there is any other provision of the general statutes which imposes such power or duty upon the Secretary. I am unable to find any." Extract from opinion of the Attorney General, March 28, 1899.

the new law is the division of the subjects of census inquiry into two parts, the first to be taken and finished at once, the second to be postponed until the others are completed. All information which it requires the aid of enumerators all over the country to secure must be gathered, tabulated and published before July 1, 1902. All information derived from other sources and heretofore included in our census is not to be gathered and published until later. For example, it is contrary to the practice of the American Census Office to ask the people through enumerators about their religious belief or their membership in any religious body. The information gathered on this head by the Eleventh Census was derived from the officials of the various church organizations. Such an inquiry can be made independent of and later than the great count of population and is accordingly to be postponed. The same is true of inquiries into the social statistics of cities, into public debt, valuation and taxation, and into such special lines of business as the telephone, telegraph and street railways.

Perhaps the most immediate duties of the Census Office when it was organized were those of preparing places in which its more than two thousand clerks and its fifty thousand enumerators might work. The former has been met since August by the construction of a building into which the office is now (December, 1899) moving, the latter by the division of the country into nearly fifty thousand enumeration districts.

The work of the Eleventh Census was seriously hindered by the necessity of distributing its force through several buildings often some distance apart and always built with no reference to the needs of a census office. The office could not legally spend any of its appropriation in putting up a building, for no such

use of it had been specifically authorized, but it did succeed in inducing private capitalists to put up a building substantially according to plans furnished by the Assistant Director, the capital being protected by a contract to lease the building for five years. The new Census Office extends over more than two acres at the northwest corner of the Capitol grounds, and most of it is but one story high. This part is largely occupied by two main rooms where statistical tables will be made from the raw material furnished by the enumerators. The front is of two stories and divided into smaller rooms for the administrative and statistical officers and their clerical staff.

To a student unfamiliar with the preparatory work for an American Census perhaps the most striking fact connected with the office is the importance of the geographical division. Through these early months it has been the largest division in the Census Office and its work serves as a foundation for the rest.

To the historian, lawyer or statesman the population is the primary fact and the land surface is that area over which the population exercises sovereignty. But to the Census Office the land surface is the primary fact and the population is that part of humanity which resides on it. The count of population results from adding the number of residents in each of fifty thousand enumeration districts, the census of farms results from gathering the farm statistics in each district, and the same is true in a measure of the vital statistics and the manufacturing returns. The enumeration district or, in office parlance, the E. D., is the geographical unit of the census. But the existing territorial divisions do not meet the office needs and therefore new ones have to be made, utilizing however as far as possible existing boundary lines.

For census purposes the recent acquisitions of the United States in the East and West Indies are not included, and the only territory over which our Federal Census is to be extended for the first time in 1900 is the Hawaiian Islands. A census of Cuba and Porto Rico is now in progress but is in charge of the War Department. In this work the Census Office has gladly co-operated so far as desired and the results obtained in the islands will be so tabulated as to be comparable in the main with the results in the United States.

The essential requisites of an enumerator's district are (1) that it be small enough for the slowest enumerator appointed to work over within the time allowed him, two weeks in a city and a month elsewhere; (2) that it have boundaries so well marked and known that the enumerator will have no difficulty in keeping within them; (3) that these boundaries agree so far as possible with the political divisions of the state, such as counties, townships and cities, by which the population must be reported. At the last census these districts were made in the first instance by the supervisors and reported by them to Washington for criticism and modification. But the supervisor is not so well able to apply these tests as the central office, where the records and experience of previous censuses are gathered, and where a uniform plan of division can be followed with modifications only as the diversity of local conditions requires. Hence in the Twelfth Census for the first time the division into E. D.'s was made at Washington. The first step was to divide the United States into three hundred supervisor's districts. Under the law the boundaries of these districts were to conform, whenever practicable and desirable, to those of Congressional districts. There are 292 supervisor's districts and 352 Congressional districts in



the states. In 160 cases the two exactly coincide, while the other 190 Congressional districts fall into 132 supervisor's districts, but in a large proportion of the latter cases the difference in boundary between the two is insignificant. A supervisor's district must be so arranged as to favor rapid and easy communication between the enumerators in the field and their superintendent, and this necessity often led to departure from the lines of Congressional districts. For example, in Florida the two Congressional districts are divided by a line stretching from the northern boundary to the point of the peninsula. The two supervisor's districts are divided by a line about at right angles to this and separating the peninsula from the continental part of the state. Hence the supervisor's districts are much the more compact.

While the first steps in delineating the E. D.'s fell to the Census Office, it is obvious that its plan of division might be faulty as a result of lack of information about local peculiarities. This local knowledge is supplied by the supervisors who are, therefore, asked to comment upon and criticize the plans of the geographer before they are finally approved and adopted. The division of the country into these fifty thousand E. D.'s follows closely the most available political boundaries. Thus no supervisor's district extends into more than one state even where the state line is transcended by a population group as between Kansas City, Missouri, and Kansas City, Kansas. No E. D. extends into two counties even when this boundary divides a town or city into two parts. Within the county the E. D.'s are bounded by local municipal boundaries subject to the condition that the district must contain no more than four thousand inhabitants and yet enough to occupy the enumerator not very

much less than the limit of time allowed him. In the cities the population whose voters cast their ballots at one place has usually been made a single enumeration district subject to the conditions mentioned.

After providing quarters for the office force and defining the territory of each member of the field force the next step was to select officials. The requisite here was to secure the most efficient and capable subordinates by methods calculated to win the approval, co-operation and support of Congress and the country. I have no special knowledge regarding the success with which the latter condition has been met, but I do know that the force as a whole is well organized, zealous and energetic, and I am glad to assure you that in efforts to secure the highest ability and training available in the clerical staff of my own division I have met nothing but the most cordial encouragement and support, and to express my belief that others in the Census Office have had a similar experience.

For the first time in our national experience an effort will be made to test the would-be enumerator's ability to perform his duties before he is appointed. I believe this effort is practicable and will be effective. In that case it should mark a decided step in advance in our census work, for office work can no more cover the defects of field work than a stream can rise above its source.

The field work of the Census done by enumerators begins and ends under the law with the month of June, 1900. It divides the work in Washington and in the offices of the local supervisors into two parts, the work of preparation done before June, 1900, and the work of reception, tabulation, presentation and interpretation done after that date. The work of the census

enumerator consists essentially in asking questions of every family and at every farm and manufacturing establishment in his enumeration district and writing the answers on blank forms or schedules prepared at Washington and sent him through his supervisor along with printed instructions which he is to follow in making his entries. Probably no part of the preliminary work, therefore, is more important than the preparation of these schedules on which the answers are written by enumerators. At the Eleventh Census each enumerator was obliged to carry from ten to thirteen kinds of schedules and the task of mastering and following the instructions was not an easy one. Complaints from the field were common and vigorous and there is little doubt that the whole work suffered because the enumerator's duties were too heavy and complex. Under the present law and the plans for its execution no enumerator will have more than four schedules to carry and to fill. Everywhere he will find people and so everywhere he must carry the population schedule. Everywhere deaths will have occurred during the preceding year, but in the registration areas, including perhaps two-fifths of the population of the United States, the information regarding these deaths to be had from the local records is fuller and more correct than that obtainable by inquiries of each family. In such places, therefore, the enumerator will be relieved of the vital statistics schedule. In cities the enumerator will seldom find any farms, and so will not need the agricultural schedule. In most cities, too, the manufacturing establishments are so diverse and the returns derived from them so complex that the average enumerator would find it difficult to fill them. Hence this duty will be intrusted in such cases to special agents. The population schedule is

thus the most important and the most generally used. The form of this blank agrees substantially with that employed in 1880, one horizontal line being given to each person and one vertical column to each question. The sheet has fifty horizontal lines on each side and thus room for answers from one hundred persons. In 1890 the queries were placed on the left, a column reserved for each person, and a sheet for each family, the so-called family schedule. The records of that census, some twelve million schedules, now fill the basement of a large building and it will probably cost \$30,000 to have them bound. If the family schedule employed in 1890 had been adopted for the present census, probably fifteen million would have been required to contain the facts regarding the population. As it is one million will probably suffice. To make the difference more conceivable I may say that the population schedules of the last census now on file in Washington include over a square mile of paper surface while those adopted for the coming census will include about one-sixth that surface. As a counterweight to this great reduction in the mass of the population schedules to be handled and stored, it must be mentioned that the space on the schedule of 1900 devoted to the answers from each person is only about one-third that given to answers to the same questions in 1890. This reduction in space may possibly affect the fullness and detail of certain answers but even if a slight loss in that direction should result it would by no means offset the gain already mentioned.

The questions asked on the population schedule have been slightly altered from those of 1890 by omissions, additions and verbal changes. The following questions asked in 1890, will not be asked at the present census :

1. Whether a soldier, sailor, or marine during the civil war (U. S. or Conf.), or widow of such person.
2. Whether suffering from acute or chronic disease, with name of disease and length of time afflicted.
3. Whether defective in mind, sight, hearing, or speech, or whether crippled, maimed, or deformed, with name of defect.
4. Whether a prisoner, convict, homeless child, or pauper.

The following questions not asked in 1890, will be asked for the census of 1900:

1. The date of birth in calendar year and month.
2. The year of immigration to the United States.

These questions are introduced as supplementary to questions "Age at last birthday?" and "Number of years in the United States?" partly in the effort to minimize the tendency to concentrate on round numbers in the statement of age, and partly as a transition to the sounder and more correct form of asking age and years in the United States.

The following questions have been changed in form since 1890: "Age at nearest birthday" has been changed to "Age at last birthday." "Whether married during the year," has been changed to "Number of years married." Under the question "Able to speak English," the additional inquiry, "if not, the language or dialect spoken," has been omitted.

The Twelfth Census, like all its predecessors, will attempt to report the resident or *de jure* population, whether physically present in the district or not at the time the place of abode is visited by the enumerator. The office interprets the phrase "usual place of abode" in the census law, as depriving it of discretion in this matter. But an effort to count

the resident population is beset with serious difficulties, and they are increased by the date at which the census must be taken. The month of June is one in which many persons, especially in the cities, are away from their residences, and many residences are closed. This constitutes the most serious danger to the accuracy and completeness of an American census. To meet it, the enumerators in the cities next June will probably be asked to keep, in a separate "street-book," a record of the results of the visit to each house, showing which were closed and where one might hope to get information concerning the residents of such closed houses. Special enumerators, paid by the day, are then to seek at the addresses entered on the first enumerator's street book, or by correspondence, the information wanted for the family. These returns will be placed on special supplementary forms, to which reference will be made in the unfilled line on the first enumerator's schedule. Such a plan will greatly reduce the danger of omissions, but one may still cherish a doubt whether a census of the resident population, rather than one following the alternative method of counting everyone where he is found and asking where he resides, will be found permanently satisfactory. That question, however, belongs to Congress and not to the Census Office.

In order to get a better grade of enumerators than formerly, every applicant for appointment will send to the supervisor of his district, a schedule filled out with facts drawn from a printed narrative. This will be corrected by the supervisor and forwarded with his endorsement to the Census Office. This tests the handwriting of the applicant and his mastery of instructions; for his character and diligence, the endorsement of the supervisor will vouch.

No advance in the census work of any country since the Belgian census of 1846 is more important than the application of electricity to the tabulation of results, which was first made in the Eleventh Census of the United States. This method, called after its inventor the Hollerith system, will be employed in the Twelfth Census and important improvements in it have already passed the experimental stage and are likely to be adopted. By this method a card some three by six inches is used to record the facts for each person in the United States. A section of the card is reserved for the information in reply to each question on the schedule, the answer to which is to be used in the tables, and a part of each section is reserved for each possible answer to the question. Thus a narrow strip near the left of each card is reserved for the answer regarding race or color. In the census volumes, five race divisions, viz., white, black, Chinese, Japanese and Indian, are recognized and the answer to this question for every person must be entered under one or another of those five classes. Entry is made on the card by punching a little hole in the proper place. One hole, and only one, is to be made in each section, that is, the person must be of some race, some sex, some age, etc. The card is then placed in a machine and a system of blunt pins brought down upon it, one pin at every place where a hole might occur. Wherever a hole has been made, the corresponding pin passes through into a cup containing mercury, elsewhere the pins are pushed back by the resistance of the card. Each cup is connected with a counter having a dial capable of registering to 10,000. The electric current passes through one section of the card at the place a hole has been made and into the mercury, then through the counter connected with that mercury cup, then to the next

section and through the hole there made and the counter connected with it, and so on. If in any section no hole has been punched, the circuit is broken at that point and nothing on the card is recorded, the bell introduced at another point in the circuit fails to ring, and the card is thrown aside for correction. The machine is thus a device for simultaneous mechanical tallying, and can be modified and combined with various accessory devices, according to the needs of the particular case.

It is not improbable that a tabulating card will be used in the Twelfth Census, not only for each person, but also for each family. In that case, the age of the family or the duration of the marriage, the number of children and other dependents, the occupation of the head and of other members, the ownership or tenancy of the house, etc., would be recorded by holes in the family card and then tabulated. This is apparently the only way in which certain items on the population schedule can be utilized, and if the plan is carried out it would add appreciably to the scientific value of the next census.

The work of the division of vital statistics will follow closely the lines of the last census. For perhaps two-fifths of the population of the United States, the records of deaths will be copied from municipal or state registration offices. Elsewhere they will be gathered by enumerators. The effort to supplement the latter by returns from physicians regarding deaths which have occurred in their practice will be discontinued. On the other hand, the local and state registration officers have coöperated with most encouraging cordiality in the effort to secure uniformity in the data reported by them, and to be copied and tabulated by the Twelfth Census.

As you may know, the Division of Manufactures is



located at present in Boston, this being the only way in which the Census Office could secure the services of Mr. S. N. D. North at the head of that division. Consequently I will plead my own unfamiliarity with the plans of that division in detail as a reason for passing them by. We are fortunate in having a representative of the agricultural division of the Census Office with us this morning and he will present its plans from a fullness of knowledge which I cannot claim.

These four main divisions have as their goal the preparation and publication of the tables in their respective fields with such explanations as may be deemed necessary. Meanwhile the fifth division, that of Methods and Results, will study, analyze and interpret the past experience of the United States, the several states and foreign countries as expressed mainly in their census volumes, and will prepare criticisms and summaries stating the results of such experience and, in the light of it, what is to be looked for as significant in the tables of the Twelfth Census. The final volumes of the Twelfth Census will be prepared by combining the outcome of such studies with the tables and explanations resulting from the four main lines of inquiry.

I have felt it both a pleasure and a duty as in some sense a link between this Association and the Census Office to present such of our plans and aims as might interest a gathering like the present and thus possibly bring the producers and the consumers of statistics, or the officials and the academic teachers and students, to a better understanding and closer sympathy. It may fairly be mentioned that when a committee of this Association recently gathered a score of essays on various aspects of census work from the persons, who in their

judgment were the most competent experts in the various fields, their judgment coincided closely with that shown by the Census Office through its appointments. The person requested by our committee a year ago to report upon the census statistics of agriculture was invited by the Census Office some months later to become chief statistician in charge of that division. The person selected by our committee to write upon the census statistics of manufactures was similarly honored by the Census Office and in some degree as a result of the statistical ability shown in that essay. The other three appointments to similar rank were all persons requested by our committee to prepare papers for the Association's Monograph, and in one of these cases the selection was intended in part as a direct compliment to this and similar bodies and to the efforts they have made for the improvement of census work.

While I think the Association may congratulate itself upon such recognition of its usefulness, I may venture at the same time to point a warning for the students of statistics in this body. It is expressed in a conversation recently repeated to me by a friend connected with the Census Office, whose statistical acumen and business judgment I greatly admire. He was talking with Mr. S. N. D. North, now chief statistician of manufactures. The latter had said: "I understand that the Director of the Census was especially desirous to arrange for my appointment after he had read my paper on the Statistics of Manufactures in the Monograph of the American Economic Association." The friend replied: "Your having written that paper is the only thing I know about you that would lead me to doubt the wisdom of your appointment," and in explanation he added "In that paper you have held up an

ideal for the Division of Manufactures, which neither you nor any one else can attain, and yet having put it in print over your own name, you are sure to be measured and criticized by it." I believe that most persons engaged in the practical work of statistical offices welcome gladly any clear and accurate statement from outside sources of the ideal toward which the particular line of statistics on which they are working should aspire. But writers and students commonly assume that such an ideal as they have set up can be realized in practice far more fully than the conditions admit, and, therefore, by implication if not in direct words, suggest that the falling short of that ideal is in some way the fault of the Census Office and of the persons who are directing its work. If the heartiest coöperation between official statisticians and writers on such subjects is to be secured, any such implication must be scrupulously avoided. After some familiarity with both sorts of work, I may say frankly that even careful students, who are familiar with the Census Office only from its printed publications, are more often wrong than right in suggestions they may make regarding possibilities of improvement.

Finally, then, I may congratulate this association upon the efforts it has recently made for the improvement and the better interpretation of the Federal Census, and express the hope that in the future similar efforts may bring the Economic Association into even closer touch with those branches of the Government in whose work it is especially interested, and thus further the policy so ably outlined and recommended by our honored President in his last annual address.

MR. H. T. NEWCOMB: The scope of the agricultural investigations of the Twelfth Census was determined very largely outside of the Census Office. Section 7 of the Act providing for the Twelfth Census reads, in part, as follows:

"The schedules relating to agriculture shall comprehend the following topics: Name of occupant of each farm, color of each occupant, tenure, acreage, value of farm and improvements, acreage of different products, quantity and value of products, and number and value of live stock."

Obviously, therefore, it was no part of the duty of the Census Office to inquire whether any of these topics belonged properly to census work. It is quite possible that if these questions had been open to discussion, the omission of some of the topics of inquiry mentioned, and especially of those relating to value, might have been determined upon. Again, the United States Department of Agriculture has a large statistical division, which for more than thirty years has published annual statements of agricultural acreage, production, and values, and regular statements of the conditions and prospects of growing crops. This division regards its work as dependent upon data supplied in the census, and it seemed clear that it was the duty of the Census Office to supply these data as far as practicable, and that the latter was very largely relieved from making inquiries concerning the value of those so demanded. Therefore, the content of the general agricultural schedule was determined quite as much outside as within the Census Office.

On the other hand, the form of the schedule was wholly within the control of the Census Office. The most notable change in this respect was the adoption of

an individual farm schedule. The schedules used in the Tenth and Eleventh censuses each contained space for reports concerning ten farms, and it may appear strange that the adoption of the single farm schedule should be coincident with the substitution of the one-hundred name schedule for the family schedule in the enumeration of population. Previous to 1890, those best qualified in statistical technique had rapidly advanced toward the conviction that the schedule for any investigation should contain the facts relating to but one of the units in that investigation; the object of each subdivision being to diminish and simplify the work of tabulation by permitting much of it to be accomplished by assorting the schedules themselves. Many regarded the adoption of the family schedule in 1890 as but a prelude to the adoption of an individual schedule.

The employment of the electrical tabulating system, invented by Dr. Hermann Hollerith, produced changes in census methods which extend to the formulation of the schedules. In connection with population, the new system, requiring the transfer of the facts concerning each individual to a single card, practically requires the office to make its own individual schedules. It has consequently become desirable to use for the schedule to be placed in the hands of the enumerators the largest sheet which can be conveniently handled. This would be equally desirable for agriculture, were tabulation the most important element to be considered in formulating the schedules. There are, however, fundamental differences between the agricultural inquiries and those carried on the population schedules, and one of the consequences of these differences is that, while the latter are generally returned ready for tabulation, the agricultural schedules require careful examination in order to elimi-

nate errors and supply obvious corrections. With the ten-farm schedule formerly used, a single error concerning the operations of one farm necessarily delayed the tabulation of the possibly perfectly correct answers regarding nine other farms. The paramount advantage of the individual farm schedule is that it will permit the immediate tabulation of all correct reports, without interfering with the attempts to secure the correction of the schedules that are imperfectly filled out.

The adoption of the individual farm schedule gave opportunity to reorganize the general schedule, and suggested the advisability of so doing. This reorganization has been so complete that it would be impracticable here to attempt to specify each change. One of the most important is in the manner of asking the questions concerning values of farm products. The Eleventh Census asked concerning each commodity, the quantity sold, as well as the quantity produced, and also the amount received from sales. The intention was to establish average prices by comparisons between these data, and by complicating these averages with the quantities produced to secure the total values of the latter. This purpose was not executed, and though the completion of the plan was impracticable owing to the limited funds available, there are some indications that it could not have been carried out under the most favorable circumstances.

The schedule for the Twelfth Census asks for values of the entire production, whether sold or consumed at home. If it is possible to secure satisfactory answers to the questions thus asked, a great deal of clerical work necessary under the former plan will be obviated, and it also has the advantage of reducing the number of inquiries one-half. The present schedule inquires con-

cerning the aggregate values of certain groups of products which are cultivated in small quantities, and in regard to which it is believed that it would be exceedingly difficult to secure more detailed information.

Another important change is the classification of farm animals according to ages. This modification was strongly urged by those engaged in the live stock industry and by the Department of Agriculture. Provision has been made in the inquiries in regard to tenure for answers covering farms cultivated jointly by owners and tenants, and by salaried managers. This is in addition to those cultivated by owners, by tenants on shares, and by tenants for money rental.

Some questions asked in 1890 have been omitted. Land is classified as improved and unimproved. In 1880 each of these classes was divided into two sub-classes. Improved land was classed as "tilled, including fallow and grass in rotation (whether pasture or meadow)," or as "Permanent meadows or pastures, cultivated forests, orchards, vineyards, nurseries, and market gardens." Unimproved land was classed as "Natural woodland and forests," or as "Other unimproved, including 'old fields,' not growing wood." The areas in these sub-classes, however, were not separately tabulated.

The cost of building and repairing fences during the census year, asked in 1890, will not be asked in the Twelfth Census. Quantity and value of straw, taken in 1890, will not appear, though the value should be reported with the value of the wheat or other crop in connection with which it was produced.

The question concerning the value of buildings on the farm has been introduced to meet a very general demand. In connection with the hay crop, a question has been added covering the area, quantity, and value of the

grains cut green for hay, in order to provide for a practice very common on the Pacific Coast.

The plans for the report of the Division of Agriculture have not been finally adopted, but they are sufficiently matured to warrant a few words in that connection. It is certain that the classification by the size of farms will be improved by the division of the class containing farms of from one hundred to four hundred and ninety-nine acres into at least two, and probably three classes. This classification will probably be applied to area and general values, as well as to the number of farms, and possibly to the production of some of the great staple crops.

Heretofore Census inquiries concerning live stock have not included live stock in cities or villages, and the numbers reported have thus been considerably smaller than the entire numbers of the animals of different classes in the country. A measure now pending in Congress for the amendment of the Census law provides for the collection of statistics concerning this portion of the live stock previously unreported, and there is little doubt that this important addition to the work of the office and to the value of its results will be made.<sup>1</sup>

There are also certain special topics, such as the production of cranberries, floriculture, and the nursery industry, which will be provided for by special schedules. These inquiries are to be prosecuted as far as possible by correspondence, though the work may be supplemented by that of special agents if it is found necessary.

Professor MAYO-SMITH said that the Association was to be congratulated on the condition of things in the new Census as revealed by Professor Willcox's paper.

<sup>1</sup>The amendment referred to was adopted, and received the President's approval on February 1, 1900.



This Association had demanded a year ago and always simply two things, *viz.*: the best scientific organization of the Census Office and honesty and decency in the appointment of subordinate officers. The first demand was being met by the care and acumen shown in the preliminary works; by the division of the work which pointed in the direction of a permanent Census Office; and by the organization of the Division of Methods and Results under Professor Willcox which would secure the best treatment and analysis of the data. The second demand had perhaps best be touched upon lightly. It was acknowledged that the subordinate appointments were to be made politically. The Census Office was doing the best it could to secure good men by a test of fitness. The best plan was to simplify the schedule so that the ordinary enumerator could handle it.

Professor D. R. DEWEY: I think that the paper may possibly give us the impression that the census has undergone a very great change for the better in this country, and that we are consequently likely to underestimate the census work that has been done in the past. We must remember that two censuses at least were presided over by a trained economist. The description given does not disclose any very radical changes from previous censuses. The student of statistics is not particularly interested with the inside machinery of the Census Office. He takes it that this is in a very large amount dependent upon political opinion which governs the character of the civil service. He recognizes that the service of the statistical or census branch of the office is no better and no worse than in other departments. It does not appear that the civil service regulations adopted by the Census Office are of a very serious character. As

far as they go, however, they are to be welcomed, but as students we are justified in demanding much higher ideals. We are especially interested in the hope that the Census Office may become a permanent office. We also are particularly interested in the method of working up the results so that they may be of greater and greater value to investigators in economics.

Professor R. P. FALKNER: When a committee of this Association undertook to criticize the Eleventh Census it was found extremely difficult to place the responsibility for the defects. Gentlemen who had been in charge of the census operations assured us that the faults of the latter were due to the law under which the census was taken. Professor Willcox has not concealed from us that there are defects in the present law, and enters a species of caveat against any future criticisms of the work of the Twelfth Census. But whatever its results may be, they have yet to be seen and any criticism of census methods by outsiders would seem premature until they have been tested by experience. When the Twelfth Census shall have been completed there will be more of us ready to rise up and speak our minds upon the subject. We can, however, rest assured of one thing, that the responsibility for the merits or defects of the enumeration of 1900 will rest more squarely than it has ever done before on the shoulders of the Census Office. The present law hampers the Director by no superior authority, and leaves, more explicitly than has ever been the case before, the formulation of plans, questions and methods to his judgment and discrimination. In this sense we have made great progress, and I share the conviction of many statisticians that this confidence in executive discrimination will prove not to have been misplaced.

## PRELIMINARY REPORT OF COMMITTEE ON COLONIES.

The Committee on Colonies constituted at the last annual meeting was finally organized as follows :

Jeremiah W. Jenks, Chairman,

Hon. Charles S. Hamlin,

Prof. E. R. A. Seligman,

Dr. Albert Shaw,

Prof. E. H. Strobel.

In the summer Professor Strobel, on account of intended absence in Europe, withdrew from the committee, so that the present report is signed by only four members.

It seemed wise to the committee to secure information regarding the fiscal methods and economic conditions of typical modern colonies and to endeavor, on the basis of this information, to suggest tentatively some general principles which might be applicable to the government of the new dependencies of the United States.

In addition to the members of the committee several other persons, on the solicitation of the chairman, agreed to make reports on various colonies. While it has been impossible for some of these, on account of pressure of other work, as yet to complete their reports, papers have been received on the fiscal systems of the French, the German, and several of the English Colonies, including the West Indies, and the Straits Settlements, with the Federated Malay States. At an early date reports are expected on the Danish, the Spanish and the Dutch Colonies, as well as on other typical British Colonies.

In so far as the committee now feels itself warranted in formulating any views based upon its preliminary studies of the experience of other countries, it has to offer the following general suggestions :

First. The finances of each colony should be managed exclusively for the sake of the colony and for its development, and not for the advantage of the mother country.

Second. No uniform system of detailed fiscal management for a number of colonies in different parts of the world can be established. Each colony must be considered by itself and its system must be adapted to its conditions.

Third. Each colony should, as far as possible, be made self supporting; but the mother country may well sustain the colony's credit or make advances to be repaid at a later date.

Fourth. In undeveloped colonies whose inhabitants are not capable of managing important public works such as railways, canals, telegraph systems, etc., these improvements may well be owned by the government and managed by government officials rather than by private companies.

Fifth. The selection of sources of revenue must in each case be determined in accordance with the economic and social conditions of the colony.

Sixth. Where the colony is so situated that the development of trade with foreign countries is the chief economic consideration, import duties should be very low or practically non-existent.

Seventh. In colonies of undeveloped economic resources the chief reliance for general government income should be on a system of internal revenue taxes, with compensatory duties on articles imported similar

to those subject to internal revenue taxes. Excise duties should be levied primarily on a few articles of general consumption, like alcoholic drinks, opium and rice. When any colony has decided advantages in the production of some specially favored commodities like sugar, tobacco, hemp, etc., it may be desirable to impose business licenses or similar duties on them. It is even a question whether low export duties on such commodities may not advantageously be employed in exceptional cases, it being assumed that under these circumstances a duty on colonial exports would not be inconsistent with the constitution of the United States.

Eighth. It is undesirable to utilize an octroi or a system of taxes on consumption for local purposes. Local revenue should, in most cases, be derived in a large measure from real estate, business licenses and kindred specific taxes.

Ninth. In the administration of fiscal affairs natives, wherever possible, should be utilized as officials. It should be fully understood, however, that in the last resort the desires of the United States Government, expressed by the proper authority, are to be paramount and its decisions final.

Tenth. As long as any of the colonies have not attained modern industrial conditions, it may be advisable to continue as far as may be possible native customs during the period of transition. For example:

It is quite possible that for some time to come the system of farming out the revenue to contractors, especially to native chiefs, should be retained, under such restrictions as may prove practicable.

Eleventh. For the proper administration of the fiscal system in any of the dependencies of the United States

it is absolutely essential to establish a civil service which is beyond question as respects the ability and honesty of its personnel.

Twelfth. In those dependencies where it is difficult to secure an adequate supply of efficient native labor, the question of the admission of foreign laborers should be seriously considered. While there may be sufficient justification for the exclusion of Chinese workmen from the United States, it by no means follows that they should be excluded from the Philippines.

JEREMIAH W. JENKS,  
CHARLES S. HAMLIN,  
EDWIN R. A. SELIGMAN,  
ALBERT SHAW.

[The following remarks, made by Professor Keasbey, at the close of the discussion upon President Hadley's address, should have been printed on page 87.]

PROFESSOR KEASBEY: I agree with Professor Commons. Before taking up the discussion we should define our terms. What do we mean by an *Economist*? He is a *scientist* of course; but then again he is also a *man*. As *scientist* he is neither the exponent of society as a whole, nor is he the apologist for any particular part; he is interested simply and solely in the pursuit of truth. As *man* he may have what Plato would call a "watery friendship" for humanity as a whole, but he is more probably a patriot of some country and very likely also an adherent of a certain political party. In times of stress this duality is apt to become confused. In such a personal science as ours it is difficult for the economist to separate theory from practice, and hence the danger of sliding from abstractions into hypocrisy. But the distinction is still there and cannot be too vigorously insisted upon in a discussion of this kind.

With the distinction in mind, what shall we say of "society as a whole." To the scientist there is no such thing. We may speak of the human *race* but not of human *society*. The scientist sees the human race organized into a number of human societies. The man regards the particular society to which he belongs as society *par excellence*;—the Esquimaux call themselves *Innuits* or "the people," and in our own phrase we Americans likewise call ourselves "the people." But over against the rest of the world it is just as partial to take

our own society as typical, as it is to universalize the cause of some particular party within our own society. It is merely a matter of degree, and here again there is danger of hypocrisy.

I must also take exception to our distinguished President's distinction between the theory of prosperity and the theory of distribution. To the pure scientists both are impersonal, they are merely two sets of objective phenomena to be observed with equal impartiality. The man, on the other hand, is personally interested in the prosperity of his country as a whole, and also in the welfare of the particular class or section to which he happens to belong. In the former case, he is supported by all his countrymen and opposed by the rest of the world; in the latter case he has a smaller group behind him, and is opposed by the rest of his countrymen.

The distinction is not, therefore, between prosperity and distribution, but between scientist and man. The scientist is interested in the whole truth; the man is interested in the welfare of that part of humanity with which he is identified. Scientist and man are united in one personality. Therein lies the confusion, and hence hypocrisy is only too apt to emerge.